

By: Carlton

To: Judiciary

SENATE BILL NO. 2797  
(As Sent to Governor)

1 AN ACT TO CREATE NEW SECTION 45-33-21, MISSISSIPPI CODE OF  
2 1972, TO ENACT LEGISLATIVE FINDINGS AND MAKE A STATEMENT OF INTENT  
3 AND PURPOSE; TO CREATE NEW SECTION 45-33-23, MISSISSIPPI CODE OF  
4 1972, TO ENACT DEFINITIONS; TO CREATE NEW SECTION 45-33-25,  
5 MISSISSIPPI CODE OF 1972, TO REQUIRE REGISTRATION WITH THE  
6 MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY OF ALL CONVICTED SEX  
7 OFFENDERS, AND TO PROVIDE WHAT INFORMATION IS REQUIRED FOR  
8 REGISTRATION; TO CREATE NEW SECTION 45-33-27, MISSISSIPPI CODE OF  
9 1972, TO ENACT DEADLINES FOR REGISTRATION; TO CREATE NEW SECTION  
10 45-33-29, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT REGISTRANTS  
11 PROVIDE NOTICE OF ANY CHANGE OF ADDRESS; TO CREATE NEW SECTION  
12 45-33-31, MISSISSIPPI CODE OF 1972, TO REQUIRE PERIODIC  
13 REREGISTRATION; TO CREATE NEW SECTION 45-33-33, MISSISSIPPI CODE  
14 OF 1972, TO ENACT PENALTIES FOR FAILURE TO REGISTER; TO CREATE NEW  
15 SECTION 45-33-35, MISSISSIPPI CODE OF 1972, TO CREATE A CENTRAL  
16 SEX OFFENDER REGISTRY AND TO REQUIRE CERTAIN PERSONS TO PERFORM  
17 REGISTRATION DUTIES; TO CREATE NEW SECTION 45-33-37, MISSISSIPPI  
18 CODE OF 1972, TO REQUIRE A CONVICTED SEX OFFENDER TO PROVIDE A  
19 BLOOD SAMPLE FOR PURPOSES OF DNA IDENTIFICATION ANALYSIS; TO  
20 CREATE NEW SECTION 45-33-39, MISSISSIPPI CODE OF 1972, TO REQUIRE  
21 NOTICE TO THOSE REQUIRED TO REGISTER; TO CREATE NEW SECTION  
22 45-33-41, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE TO  
23 INCARCERATED PERSONS REQUIRED TO REGISTER; TO CREATE NEW SECTION  
24 45-33-43, MISSISSIPPI CODE OF 1972, TO REQUIRE WRITTEN NOTICE BE  
25 GIVEN TO DRIVER'S LICENSE APPLICANTS; TO CREATE NEW SECTION  
26 45-33-45, MISSISSIPPI CODE OF 1972, TO ENACT A DEFINITION OF  
27 "SEXUAL PREDATOR"; TO CREATE NEW SECTION 45-33-47, MISSISSIPPI  
28 CODE OF 1972, TO PROVIDE FOR A PETITION FOR RELIEF FROM THE DUTY  
29 TO REGISTER; TO CREATE NEW SECTION 45-33-49, MISSISSIPPI CODE OF  
30 1972, TO PROVIDE FOR DISCLOSURE TO THE PUBLIC, SCHOOL AND DAY CARE  
31 CENTERS; TO CREATE NEW SECTION 45-33-51, MISSISSIPPI CODE OF 1972,  
32 TO ENACT PENALTIES FOR THE MISUSE OF REGISTRATION INFORMATION; TO  
33 CREATE NEW SECTION 45-33-53, MISSISSIPPI CODE OF 1972, TO PROVIDE  
34 IMMUNITY FROM CIVIL LIABILITY AND IN THE EXERCISE OF DISCRETION  
35 UNDER THE ACT; TO CREATE NEW SECTION 45-33-55, MISSISSIPPI CODE OF  
36 1972, TO PROVIDE EXEMPTIONS FOR EXPUNCTION; TO CREATE NEW SECTION  
37 45-33-57, MISSISSIPPI CODE OF 1972, TO ALLOW THE DEPARTMENT OF  
38 PUBLIC SAFETY TO ESTABLISH FEES TO BE CHARGED FOR REQUESTS FOR  
39 INFORMATION; TO REPEAL SECTIONS 45-33-1 THROUGH 45-33-19,  
40 MISSISSIPPI CODE OF 1972, WHICH DEAL WITH THE REGISTRATION OF  
41 CONVICTED SEX OFFENDERS; TO REPEAL SECTIONS 45-31-1 THROUGH  
42 45-31-19, WHICH COMPRISE THE SEX OFFENSE CRIMINAL HISTORY RECORD  
43 INFORMATION ACT; TO AMEND SECTIONS 43-21-255, 43-21-261, 37-3-51,  
44 43-16-9, 43-20-8, 43-20-57, 43-21-623 AND 99-19-201, MISSISSIPPI  
45 CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

47 SECTION 1. Section 45-33-21, Mississippi Code of 1972, is

48 codified as follows:

49 45-33-21. **Legislative findings and declaration of purpose.**

50 The Legislature finds that the danger of recidivism posed by  
51 criminal sex offenders and the protection of the public from these  
52 offenders is of paramount concern and interest to government. The  
53 Legislature further finds that law enforcement agencies' efforts  
54 to protect their communities, conduct investigations, and quickly  
55 apprehend criminal sex offenders are impaired by the lack of  
56 information shared with the public, which lack of information may  
57 result in the failure of the criminal justice system to identify,  
58 investigate, apprehend, and prosecute criminal sex offenders.

59 The Legislature further finds that the system of registering  
60 criminal sex offenders is a proper exercise of the state's police  
61 power regulating present and ongoing conduct. Comprehensive  
62 registration and periodic address verification will provide law  
63 enforcement with additional information critical to preventing  
64 sexual victimization and to resolving promptly incidents involving  
65 sexual abuse and exploitation. It will allow law enforcement  
66 agencies to alert the public when necessary for the continued  
67 protection of the community.

68 Persons found to have committed a sex offense have a reduced  
69 expectation of privacy because of the public's interest in safety  
70 and in the effective operation of government. In balancing  
71 offenders' due process and other rights, and the interests of  
72 public security, the Legislature finds that releasing such  
73 information about criminal sex offenders to the general public  
74 will further the primary governmental interest of protecting  
75 vulnerable populations and, in some instances the public, from  
76 potential harm.

77 Therefore, the state's policy is to assist local law  
78 enforcement agencies' efforts to protect their communities by  
79 requiring criminal sex offenders to register, to record their  
80 addresses of residence, to be photographed and fingerprinted, and

81 to authorize the release of necessary and relevant information  
82 about criminal sex offenders to the public as provided in this  
83 act, which may be referred to as the Mississippi Sex Offenders  
84 Registration Law.

85 SECTION 2. Section 45-33-23, Mississippi Code of 1972, is  
86 codified as follows:

87 45-33-23. **Definitions.**

88 For the purposes of this chapter, the following words shall  
89 have the meanings ascribed herein unless the context clearly  
90 requires otherwise:

91 (a) "Conviction" shall mean that, regarding the  
92 person's offense, there has been a determination or judgment of  
93 guilt as a result of a trial or the entry of a plea of guilty or  
94 nolo contendere, regardless of whether adjudication is withheld.  
95 "Conviction of similar offenses" includes, but is not limited to,  
96 a conviction by a federal or military tribunal, including a court  
97 martial conducted by the Armed Forces of the United States, a  
98 conviction for an offense committed on an Indian Reservation or  
99 other federal property, and a conviction in any state of the  
100 United States.

101 (b) "Jurisdiction" shall mean any state court, federal  
102 court, military court or Indian tribunal.

103 (c) "Permanent residence" is defined as a place where  
104 the person abides, lodges, or resides for a period of fourteen  
105 (14) or more consecutive days.

106 (d) "Registration duties" means obtaining the  
107 registration information required on the form specified by the  
108 department as well as the photograph, fingerprints, and blood  
109 sample of the registrant. Blood samples are to be forwarded to  
110 the State Crime Laboratory pursuant to Section 45-33-37; the  
111 photograph, fingerprints and other registration information are to  
112 be forwarded to the Department of Public Safety within three (3)  
113 days.

114           (e) "Responsible agency" is defined as the person or  
115 government entity whose duty it is to obtain information from a  
116 criminal sex offender upon conviction and to transmit that  
117 information to the Mississippi Department of Public Safety.

118           (i) For a criminal sex offender being released  
119 from the custody of the Department of Corrections, the responsible  
120 agency is the Department of Corrections.

121           (ii) For a criminal sex offender being released  
122 from a county jail, the responsible agency is the sheriff of that  
123 county.

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

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

129           (v) For a criminal sex offender who is being  
130 placed on probation, including conditional discharge or  
131 unconditional discharge, without any sentence of incarceration,  
132 the responsible agency is the sentencing court.

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

139           (vii) For a criminal sex offender who is being  
140 released from a jurisdiction outside this state or who has a prior  
141 conviction in another state and who is to reside in this state,  
142 the responsible agency is the Department of Public Safety.

143           (f) "Sex offense" means any of the following offenses:

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

146           (ii) Section 97-3-65 relating to rape;

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

149 (iv) Section 97-3-95 relating to sexual battery;

150 (v) Section 97-5-23 relating to the touching of a  
151 child for lustful purposes;

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

154 (vii) Section 97-5-33 relating to the exploitation  
155 of children;

156 (viii) Section 97-5-41 relating to the carnal  
157 knowledge of a stepchild, adopted child or child of a cohabiting  
158 partner;

159 (ix) Section 97-29-59 relating to unnatural  
160 intercourse;

161 (x) Any other offense committed in another  
162 jurisdiction, which, if committed in this state, would be deemed  
163 to be such a crime without regard to its designation elsewhere; or

164 (xi) Any offense committed in another state for  
165 which registration is required in that state.

166 (g) "Sexual predator" means a person who has been  
167 convicted of a sex offense or offenses as described in Section  
168 45-33-45 and who has been designated as a sexual predator  
169 according to the terms of that section.

170 (h) "Temporary residence" is defined as a place where  
171 the person abides, lodges, or resides for a period of fourteen  
172 (14) or more days in the aggregate during any calendar year and  
173 which is not the person's permanent address; for a person whose  
174 permanent residence is not in this state, the place where the  
175 person is employed, practices a vocation, or is enrolled as a  
176 student for any period of time in the state; or a place where a  
177 person routinely abides, lodges, or resides for a period of four  
178 (4) or more consecutive or nonconsecutive days in any month and  
179 which is not the person's permanent residence.

180 (i) "Department" unless otherwise specified is defined  
181 as the Mississippi Department of Public Safety.

182 SECTION 3. Section 45-33-25, Mississippi Code of 1972, is  
183 codified as follows:

184 45-33-25. **Registration with Mississippi Department of Public**  
185 **Safety of all Convicted Sex Offenders; Registration Information.**

186 (1) Any person residing in this state who has been convicted  
187 of any sex offense or attempted sex offense or who has been  
188 acquitted by reason of insanity for any sex offense or attempted  
189 sex offense or twice adjudicated delinquent for any sex offense or  
190 attempted sex offense shall register with the Mississippi  
191 Department of Public Safety. The department shall provide the  
192 initial registration information as well as every change of  
193 address to the sheriff of the county of the residence address of  
194 the registrant through either written notice, electronic or  
195 telephone transmissions, or online access to registration  
196 information. Further, the department shall provide this  
197 information to the Federal Bureau of Investigation. Additionally,  
198 upon notification by the registrant that he intends to reside  
199 outside the State of Mississippi, the department shall notify the  
200 appropriate state law enforcement agency of any state to which a  
201 registrant is moving or has moved.

202 (2) The following information shall be required for  
203 registration:

- 204 (a) Name;
- 205 (b) Address;
- 206 (c) Place of employment;
- 207 (d) Crime for which convicted;
- 208 (e) Date and place of conviction, adjudication or  
209 acquittal by reason of insanity;
- 210 (f) Aliases used;
- 211 (g) Social security number;
- 212 (h) Date of birth;

- 213 (i) Age, race, sex, height, weight, and hair and eye  
214 colors;
- 215 (j) A brief description of the offense or offenses for  
216 which the registration is required;
- 217 (k) Identifying factors;
- 218 (l) Anticipated future residence;
- 219 (m) Offense history;
- 220 (n) Photograph;
- 221 (o) Fingerprints;
- 222 (p) For sexual predators, documentation of any  
223 treatment received for any mental abnormality or personality  
224 disorder of the person;
- 225 (q) Blood sample; and
- 226 (r) Any other information deemed necessary.

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

231 SECTION 4. Section 45-33-27, Mississippi Code of 1972, is  
232 codified as follows:

233 **45-33-27. Time Frame for Registration of Offenders.**

234 (1) A person required to register on the basis of a  
235 conviction, adjudication of delinquency or acquittal by reason of  
236 insanity entered shall register within three (3) days of the date  
237 of judgment unless the person is immediately confined or  
238 committed, in which case the person shall register when released  
239 in accordance with the procedures established by the department.  
240 The court shall inform the person of the duty to register and  
241 obtain the information required for registration and forward the  
242 registration information to the department within three (3) days.

243 (2) If a person who is required to register under this  
244 section is released from prison or placed on parole or supervised  
245 release, the Department of Corrections shall perform the

246 registration duties at the time of release and forward the  
247 registration information to the Department of Public Safety within  
248 three (3) days.

249 (3) If a person required to register under this section is  
250 placed on probation, the court, at the time of entering the order,  
251 shall obtain the registration information and forward the  
252 registration information to the Department of Public Safety within  
253 three (3) days.

254 (4) Any person required to register who is neither  
255 incarcerated, detained nor committed at the time the requirement  
256 to register shall attach shall present himself to the county  
257 sheriff who shall perform the registration duties and forward the  
258 registration information to the Department of Public Safety within  
259 three (3) days.

260 (5) An offender moving to or returning to this state from  
261 another jurisdiction shall notify the Department of Public Safety  
262 ten (10) days before the person first resides in or returns to a  
263 county in this state and shall register with the department within  
264 ten (10) days of first residing in or returning to a county of  
265 this state. The offender must then present himself to the sheriff  
266 of the county in which he intends to reside to provide the  
267 required registration information.

268 (6) A person, other than a person confined in a correctional  
269 or juvenile detention facility or involuntarily committed on the  
270 basis of mental illness, who is required to register on the basis  
271 of a sex offense for which a conviction, adjudication of  
272 delinquency or acquittal by reason of insanity was entered prior  
273 to July 1, 1995, shall register with the sheriff of the county in  
274 which he resides no later than August 15, 2000.

275 SECTION 5. Section 45-33-29, Mississippi Code of 1972, is  
276 codified as follows:

277 45-33-29. **Address Change Notification.**

278 Upon any change of address, an offender under this chapter



279 must notify the department in writing no less than ten (10) days  
280 before he intends to first reside at the new address.

281 SECTION 6. Section 45-33-31, Mississippi Code of 1972, is  
282 codified as follows:

283 45-33-31. **Reregistration.**

284 A registrant shall reregister every ninety (90) days by  
285 submitting current information to the department verifying his  
286 registration information, including address, telephone number,  
287 place of employment, address of employment, and any other  
288 registration information that may need to be verified.

289 (a) The Department of Public Safety shall mail a  
290 nonforwardable verification form to the last reported address of  
291 the person every ninety (90) days.

292 (b) The person shall mail the verification form to the  
293 department within ten (10) days after receipt of the form  
294 verifying that the person resides at the address last reported.

295 (c) If the person fails to mail the verification form  
296 to the department within ten (10) days after receipt of the form,  
297 the person shall be in violation of this section.

298 SECTION 7. Section 45-33-33, Mississippi Code of 1972, is  
299 codified as follows:

300 45-33-33. **Failure to Register; Penalties and Enforcement.**

301 (1) The failure of an offender to provide any registration  
302 or other information, including, but not limited to, initial  
303 registration, reregistration or change of address information, as  
304 required by this chapter, is a violation of the law.  
305 Additionally, forgery of information or submission of information  
306 under false pretenses is also a violation of the law.

307 (2) Unless otherwise specified, a violation of this chapter  
308 shall be considered a felony and shall be punishable by a fine not  
309 more than Five Thousand Dollars (\$5,000.00) or imprisonment in the  
310 State Penitentiary for not more than five (5) years, or both fine  
311 and imprisonment.

312 (3) Whenever it appears that an offender has failed to  
313 comply with the duty to register or reregister, the department  
314 shall promptly notify the sheriff of the county of the last known  
315 address of the offender. Upon notification, the sheriff shall  
316 attempt to locate the offender at his last known address.

317 (a) If the sheriff locates the offender he shall  
318 enforce the provisions of this chapter. The sheriff shall then  
319 notify the department with the current information regarding the  
320 offender.

321 (b) If the sheriff is unable to locate the offender,  
322 the sheriff shall promptly notify the department and initiate a  
323 criminal prosecution against the offender for the failure to  
324 register or reregister. The sheriff shall make the appropriate  
325 transactions into the Federal Bureau of Investigation's  
326 wanted-person database.

327 (4) A first violation of this chapter may result in the  
328 arrest of the offender. Upon any second or subsequent violation  
329 of this chapter, the offender shall be arrested for such  
330 violation.

331 SECTION 8. Section 45-33-35, Mississippi Code of 1972, is  
332 codified as follows:

333 **45-33-35. Central Registry of Offenders; Duties of Agencies**  
334 **to Provide Information.**

335 (1) The Mississippi Department of Public Safety shall  
336 maintain a central registry of sex offender information as defined  
337 in Section 45-33-25 and shall adopt rules and regulations  
338 necessary to carry out this section. The responsible agencies  
339 shall provide the information required in Section 45-33-25 on a  
340 form developed by the department to ensure accurate information is  
341 maintained.

342 (2) Upon conviction, adjudication or acquittal by reason of  
343 insanity of any sex offender, if the sex offender is not  
344 immediately confined or not sentenced to a term of imprisonment,

345 the clerk of the court which convicted and sentenced the sex  
346 offender shall inform the person of the duty to register and shall  
347 perform the registration duties as described in Section 45-33-23  
348 and forward the information to the department.

349 (3) Upon release from prison, placement on parole or  
350 supervised release, the Department of Corrections shall inform the  
351 person of the duty to register and shall perform the registration  
352 duties as described in Section 45-33-23 and forward the  
353 information to the Department of Public Safety.

354 (4) Upon release from confinement in a mental institution  
355 following an acquittal by reason of insanity, the director of the  
356 facility shall inform the offender of the duty to register and  
357 shall notify the Department of Public Safety of the offender's  
358 release.

359 (5) Upon release from a youthful offender facility, the  
360 director of the facility shall inform the person of the duty to  
361 register and shall perform the registration duties as described in  
362 Section 45-33-23 and forward the information to the Department of  
363 Public Safety.

364 (6) In addition to performing the registration duties, the  
365 responsible agency shall:

366 (a) Inform the person having a duty to register that:

367 (i) The person shall report in writing any change  
368 of address to the department ten (10) days before changing  
369 address.

370 (ii) Any change of address to another state shall  
371 be reported to the department in writing no less than ten (10)  
372 days before the change of address. The offender shall comply with  
373 any registration requirement in the new state.

374 (iii) The person must register in any state where  
375 the person is employed, carries on a vocation, is stationed in the  
376 military or is a student.

377 (iv) All address verifications must be returned to

378 the department within the required time period.

379 (b) Require the person to read and sign a form stating  
380 that the duty of the person to register under this chapter has  
381 been explained.

382 (c) Obtain or facilitate the obtaining of a blood  
383 sample from every registrant as required by this chapter if such  
384 blood sample has not already been provided to the Mississippi  
385 Crime Lab.

386 SECTION 9. Section 45-33-37, Mississippi Code of 1972, is  
387 codified as follows:

388 **45-33-37. DNA Identification System; Convicted Sex Offender**  
389 **to Provide Blood Sample for Purposes of DNA Identification**  
390 **Analysis.**

391 (1) The Mississippi Crime Laboratory shall develop a plan  
392 for and establish a deoxyribonucleic acid (DNA) identification  
393 system. In implementing the plan, the Mississippi Crime  
394 Laboratory shall purchase the appropriate equipment. The DNA  
395 identification system as established herein shall be compatible  
396 with that utilized by the Federal Bureau of Investigation.

397 (2) From and after January 1, 1996, every individual  
398 convicted of a sex offense or in the custody of the Mississippi  
399 Department of Corrections for a sex offense as defined in Section  
400 45-33-23 shall have a blood sample drawn for purposes of DNA  
401 identification analysis before release from or transfer to a state  
402 correctional facility or county jail or other detention facility.

403 (3) From and after January 1, 1996, any person having a duty  
404 to register under Section 45-33-25 for whom a DNA analysis is not  
405 already on file shall have a blood sample drawn for purposes of  
406 DNA identification analysis within five (5) working days after  
407 registration.

408 SECTION 10. Section 45-33-39, Mississippi Code of 1972, is  
409 codified as follows:

410 **45-33-39. Notification to Defendant Charged with Sex**

411 **Offense; Notice Included on any Guilty Plea Form and Judgement and**  
412 **Sentence Forms.**

413 (1) The court shall provide written notification to any  
414 defendant charged with a sex offense as defined by this chapter of  
415 the registration requirements of Sections 45-33-25 and 45-33-31.  
416 Such notice shall be included on any guilty plea forms and  
417 judgment and sentence forms provided to the defendant. The court  
418 shall obtain a written acknowledgment of receipt on each occasion.

419 (2) A court imposing a sentence, disposition or order of  
420 commitment following acquittal by reason of insanity shall notify  
421 the offender of the registration requirements of Sections 45-33-25  
422 and 45-33-31. The court shall obtain a written acknowledgment of  
423 receipt on each occasion.

424 SECTION 11. Section 45-33-41, Mississippi Code of 1972, is  
425 codified as follows:

426 **45-33-41. Notification to Inmates and Offenders by**  
427 **Department of Corrections, County or Municipal Jails, and Juvenile**  
428 **Detention Facilities; Victim Notification.**

429 (1) The Department of Corrections or any person having  
430 charge of a county or municipal jail or any juvenile detention  
431 facility shall provide written notification to an inmate or  
432 offender in the custody of the jail or other facility due to a  
433 conviction of or adjudication for a sex offense of the  
434 registration requirements of Sections 45-33-25 and 45-33-31 at the  
435 time of the inmate's or offender's confinement and release from  
436 confinement and shall receive a signed acknowledgment of receipt  
437 on both occasions.

438 (2) At least ten (10) days prior to the inmate's release  
439 from confinement, the Department of Corrections shall notify the  
440 victim of the offense or a designee of the immediate family of the  
441 victim regarding the date when the offender's release shall occur,  
442 provided a current address of the victim or designated family  
443 member has been furnished in writing to the Director of Records

444 for such purpose.

445 SECTION 12. Section 45-33-43, Mississippi Code of 1972, is  
446 codified as follows:

447 45-33-43. **Written Notification to Certain Applicants for a**  
448 **Driver's License.**

449 At the time a person surrenders a driver's license from  
450 another jurisdiction and makes an application for a driver's  
451 license, the department shall provide the applicant with written  
452 information on the registration requirements of this chapter.

453 SECTION 13. Section 45-33-45, Mississippi Code of 1972, is  
454 codified as follows:

455 45-33-45. **Sexual Predator Designation.**

456 (1) The designation of a person as a sexual predator is  
457 neither a sentence nor a punishment, but is simply a status  
458 resulting from the conviction of certain crimes.

459 (2) An offender shall be designated a sexual predator in the  
460 State of Mississippi if:

461 (a) The offender is convicted of any of the following  
462 crimes on or after July 1, 1995.

463 (i) Section 97-3-65 relating to rape and carnal  
464 knowledge of a child under fourteen (14) years of age;

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

467 (iii) Section 97-3-95 relating to sexual battery;

468 (iv) Subsections (1) and (2) of Section 97-5-33  
469 relating to the exploitation of children;

470 (v) Section 97-5-41 relating to the carnal  
471 knowledge of a stepchild, adopted child or child of a cohabiting  
472 partner; or

473 (vi) Any violation of a similar law of another  
474 jurisdiction.

475 (b) The offender receives two (2) separate convictions  
476 of any of the qualifying offenses as described in Section 45-33-23

477 as long as one (1) of the convictions was entered on or after July  
478 1, 1995.

479 (c) The offender is twice adjudicated delinquent in a  
480 youth court for the crime of rape pursuant to Section 97-3-65 or  
481 sexual battery pursuant to Section 97-3-95.

482 (3) When an offender is before the court for sentencing for  
483 one of the above qualifying offenses, the sentencing court shall  
484 make a written finding at the time of sentencing that the offender  
485 is a sexual predator based on a first conviction for the crimes  
486 described in subsection (2)(a) above or a second conviction for  
487 any of the qualifying offenses in this chapter. The court shall  
488 submit a copy of the court order containing the written finding to  
489 the department and also to the Department of Corrections, if the  
490 offender is incarcerated.

491 (4) If the department, the Department of Corrections, or any  
492 other law enforcement agency obtains information suggesting an  
493 offender meets the "sexual predator" designation criteria, but has  
494 not been designated as a sexual predator in writing by the court,  
495 that agency shall notify the district attorney of the district in  
496 which the offender resides. The district attorney shall then seek  
497 a court order to obtain the designation.

498 (5) Any offender convicted as described in subsection (2) of  
499 this section shall be required to maintain lifetime registration  
500 without the opportunity to petition for removal from the sex  
501 offender registry.

502 (6) The offender will be considered a sexual predator for  
503 such convictions unless the conviction was set aside in any  
504 post-conviction proceeding or the offender received a pardon or  
505 similar relief. An offender who resides in Mississippi and who  
506 has been designated a sexual predator, a sexually violent predator  
507 or a similar designation in another state will be designated a  
508 sexual predator in the Mississippi sex offender registry.

509 SECTION 14. Section 45-33-47, Mississippi Code of 1972, is

510 codified as follows:

511 45-33-47. **Petition for Relief from Duty to Register;**

512 **Grounds.**

513 (1) A sex offender with a duty to register under Section  
514 45-33-25 shall only be relieved of the duty under subsection (2)  
515 of this section.

516 (2) A person having a duty to register under Section  
517 45-33-25 may petition the circuit court to be relieved of that  
518 duty under the following conditions:

519 (a) The offender has maintained his registration for  
520 not less than ten (10) years from the date of occurrence of at  
521 least one (1) of the following: release from prison, placement on  
522 parole, supervised release or probation.

523 (b) The offender has not been designated a sexual  
524 predator.

525 (3) In determining whether to release an offender from the  
526 obligation to register, the court shall consider the nature of the  
527 registerable offense committed and the criminal and relevant  
528 noncriminal behavior of the petitioner both before and after  
529 conviction. The court may relieve the offender of the duty to  
530 register only if the petitioner shows, by clear and convincing  
531 evidence, that future registration of the petitioner will not  
532 serve the purposes of this chapter.

533 SECTION 15. Section 45-33-49, Mississippi Code of 1972, is  
534 codified as follows:

535 45-33-49. **Disclosure to Public; Notification of Schools and**  
536 **Day Care Centers; Guidelines for Sheriffs as to Notification;**  
537 **Maintenance of Records.**

538 (1) Records maintained pursuant to this chapter shall be  
539 open to law enforcement agencies which shall be authorized to  
540 release relevant and necessary information regarding sex offenders  
541 to the public.

542 (2) The identity of a victim of an offense that requires



543 registration under this chapter shall not be released.

544 (3) A sheriff shall maintain records for registrants of the  
545 county and shall make available to any person upon request the  
546 name, address, place of employment, crime for which convicted,  
547 date and place of conviction of any registrant, and any other  
548 information deemed necessary for the protection of the public.  
549 The sheriffs shall be responsible for verifying their respective  
550 registries annually against the department's records to ensure  
551 current information is available at both levels.

552 (4) Upon written request, the department may also provide to  
553 any person the name, address, photograph, if available, place of  
554 employment, crime for which convicted, date and place of  
555 conviction of any registrant, and any other information deemed  
556 necessary for the protection of the public. Additionally, the  
557 department may utilize an internet website or other electronic  
558 means to release the information.

559 (5) The Department of Education, the Mississippi Private  
560 School Association and the Department of Health shall notify all  
561 schools and licensed day care centers annually regarding the  
562 availability upon request of this information.

563 (6) Nothing in this section shall be construed to prevent  
564 law enforcement officers from notifying members of the public  
565 exposed to danger of any circumstances or individuals that pose a  
566 danger under circumstances that are not enumerated in this  
567 section.

568 (7) Nothing in this chapter shall be construed to prevent  
569 law enforcement officers from providing community notification of  
570 any circumstances or individuals that pose or could pose a danger  
571 under circumstances that are not enumerated in this chapter.

572 SECTION 16. Section 45-33-51, Mississippi Code of 1972, is  
573 codified as follows:

574 45-33-51. Misuse of Information; Penalties.

575 (1) Any person who willfully misuses or alters public record

576 information relating to a sex offender or sexual predator,  
577 including information displayed by law enforcement agencies on web  
578 sites, shall be guilty of a misdemeanor and shall be punished by a  
579 fine of not more than One Thousand Dollars (\$1,000.00) or  
580 imprisonment in the county jail not more than six (6) months, or  
581 both.

582 (2) The sale or exchange of sex offender information for  
583 profit is prohibited. Any violation of this subsection (2) is a  
584 misdemeanor and shall be punished by a fine of not more than One  
585 Thousand Dollars (\$1,000.00) or imprisonment in the county jail  
586 not more than six (6) months, or both.

587 SECTION 17. Section 45-33-53, Mississippi Code of 1972, is  
588 codified as follows:

589 45-33-53. **Immunity from Civil Liability; Immunity for**  
590 **Exercise of Discretion Under Act.**

591 (1) An elected public official, public employee, or public  
592 agency is immune from civil liability for damages for any  
593 discretionary decision to release relevant and necessary  
594 information unless it is shown that the official, employee, or  
595 agency acted with gross negligence or in bad faith. The immunity  
596 provided under this section applies to the release of relevant  
597 information to other employees or officials or to the general  
598 public.

599 (2) Nothing in this chapter shall be deemed to impose any  
600 liability upon or to give rise to a cause of action against any  
601 public official, public employee, or public agency for failing to  
602 release information as authorized in this section.

603 (3) Notwithstanding any other provision of law to the  
604 contrary, any person who provides or fails to provide information  
605 relevant to the procedures set forth in this chapter shall not be  
606 liable therefor in any civil or criminal action. Nothing herein  
607 shall be deemed to grant any such immunity to any person for his  
608 willful or wanton act of commission or omission.

609 SECTION 18. Section 45-33-55, Mississippi Code of 1972, is  
610 codified as follows:

611 45-33-55. **Exemptions for Expunction.**

612 Except for juvenile criminal history information that has  
613 been sealed by order of the court, this chapter exempts sex  
614 offenses from laws of this state or court orders authorizing the  
615 destroying, expunging, purging or sealing of criminal history  
616 records to the extent such information is authorized for  
617 dissemination under this chapter.

618 SECTION 19. Section 45-33-57, Mississippi Code of 1972, is  
619 codified as follows:

620 45-33-57. **Fees.**

621 The Department of Public Safety may adopt regulations to  
622 establish fees to be charged for information requests.

623 SECTION 20. Sections 45-33-1, 45-33-3, 45-33-5, 45-33-7,  
624 45-33-9, 45-33-11, 45-33-13, 45-33-15, 45-33-17 and 45-33-19,  
625 Mississippi Code of 1972, which deal with the registration of  
626 convicted sex offenders, are repealed.

627 SECTION 21. Sections 45-31-1, 45-31-3, 45-31-5, 45-31-7,  
628 45-31-9, 45-31-11, 45-31-12, 45-31-13, 45-31-15, 45-31-17, and  
629 45-31-19, Mississippi Code of 1972, which comprise the Sex Offense  
630 Criminal History Record Information Act, are repealed.

631 SECTION 22. Section 43-21-255, Mississippi Code of 1972, is  
632 amended as follows:

633 43-21-255. (1) Except as otherwise provided by this  
634 section, all records involving children made and retained by law  
635 enforcement officers and agencies or by the youth court prosecutor  
636 and the contents thereof shall be kept confidential and shall not  
637 be disclosed except as provided in Section 43-21-261.

638 (2) A child in the jurisdiction of the youth court and who  
639 has been taken into custody for an act, which if committed by an  
640 adult would be considered a felony or offenses involving  
641 possession or use of a dangerous weapon or any firearm, may be

642 photographed or fingerprinted or both. Any law enforcement agency  
643 taking such photographs or fingerprints shall immediately report  
644 the existence and location of the photographs and fingerprints to  
645 the youth court. Copies of fingerprints known to be those of a  
646 child shall be maintained on a local basis only. Such copies of  
647 fingerprints may be forwarded to another local, state or federal  
648 bureau of criminal identification or regional depository for  
649 identification purposes only. Such copies of fingerprints shall  
650 be returned promptly and shall not be maintained by such agencies.

651 (3) Any law enforcement record involving children who have  
652 been taken into custody for an act, which if committed by an adult  
653 would be considered a felony and/or offenses involving possession  
654 or use of a dangerous weapon including photographs and  
655 fingerprints, may be released to a law enforcement agency  
656 supported by public funds, youth court officials and appropriate  
657 school officials without a court order under Section 43-21-261.  
658 Law enforcement records shall be released to youth court officials  
659 and to appropriate school officials upon written request. Except  
660 as provided in subsection (4) of this section, any law enforcement  
661 agency releasing such records of children in the jurisdiction of  
662 the youth court shall immediately report the release and location  
663 of the records to the youth court. The law enforcement agencies,  
664 youth court officials and school officials receiving such records  
665 are prohibited from using the photographs and fingerprints for any  
666 purpose other than for criminal law enforcement and juvenile law  
667 enforcement. Each law enforcement officer or employee, each youth  
668 court official or employee and each school official or employee  
669 receiving the records shall submit to the sender a signed  
670 statement acknowledging his or her duty to maintain the  
671 confidentiality of the records. In no instance shall the fact  
672 that such records of children in the jurisdiction of the youth  
673 court exist be conveyed to any private individual, firm,  
674 association or corporation or to any public or quasi-public agency

675 the duties of which do not include criminal law enforcement or  
676 juvenile law enforcement.

677 (4) When a child's driver's license is suspended for refusal  
678 to take a test provided under the Mississippi Implied Consent Law,  
679 the law enforcement agency shall report such refusal, without a  
680 court order under Section 43-21-261, to the Commissioner of Public  
681 Safety in the same manner as such suspensions are reported in  
682 cases involving adults.

683 (5) All records involving a child convicted as an adult or  
684 who has been twice adjudicated delinquent for a sex offense as  
685 defined by Section 45-33-23, Mississippi Code of 1972, shall be  
686 public and shall not be kept confidential.

687 SECTION 23. Section 43-21-261, Mississippi Code of 1972, is  
688 amended as follows:

689 43-21-261. (1) Except as otherwise provided in this  
690 section, records involving children shall not be disclosed, other  
691 than to necessary staff of the youth court, except pursuant to an  
692 order of the youth court specifying the person or persons to whom  
693 the records may be disclosed, the extent of the records which may  
694 be disclosed and the purpose of the disclosure. Such court orders  
695 for disclosure shall be limited to those instances in which the  
696 youth court concludes, in its discretion, that disclosure is  
697 required for the best interests of the child, the public safety or  
698 the functioning of the youth court and then only to the following  
699 persons:

700 (a) The judge of another youth court or member of  
701 another youth court staff;

702 (b) The court of the parties in a child custody or  
703 adoption cause in another court;

704 (c) A judge of any other court or members of another  
705 court staff;

706 (d) Representatives of a public or private agency  
707 providing supervision or having custody of the child under order

708 of the youth court;

709 (e) Any person engaged in a bona fide research purpose,  
710 provided that no information identifying the subject of the  
711 records shall be made available to the researcher unless it is  
712 absolutely essential to the research purpose and the judge gives  
713 prior written approval, and the child, through his or her  
714 representative, gives permission to release the information;

715 (f) The Mississippi Employment Security Commission, or  
716 its duly authorized representatives, for the purpose of a child's  
717 enrollment into the Job Corps Training Program as authorized by  
718 Title IV of the Comprehensive Employment Training Act of 1973 (29  
719 USCS Section 923 et seq.). However, no records, reports,  
720 investigations or information derived therefrom pertaining to  
721 child abuse or neglect shall be disclosed; and

722 (g) To any person pursuant to a finding by a judge of  
723 the youth court of compelling circumstances affecting the health  
724 or safety of a child and that such disclosure is in the best  
725 interests of the child.

726 Law enforcement agencies may disclose information to the  
727 public concerning the taking of a child into custody for the  
728 commission of a delinquent act without the necessity of an order  
729 from the youth court. The information released shall not identify  
730 the child or his address unless the information involves a child  
731 convicted as an adult.

732 (2) Any records involving children which are disclosed under  
733 an order of the youth court and the contents thereof shall be kept  
734 confidential by the person or agency to whom the record is  
735 disclosed except as provided in the order. Any further disclosure  
736 of any records involving children shall be made only under an  
737 order of the youth court as provided in this section.

738 (3) Upon request, the parent, guardian or custodian of the  
739 child who is the subject of a youth court cause or any attorney  
740 for such parent, guardian or custodian, shall have the right to

741 inspect any record, report or investigation which is to be  
742 considered by the youth court at a hearing, except that the  
743 identity of the reporter shall not be released, nor the name of  
744 any other person where the person or agency making the information  
745 available finds that disclosure of the information would be likely  
746 to endanger the life or safety of such person.

747 (4) Upon request, the child who is the subject of a youth  
748 court cause shall have the right to have his counsel inspect and  
749 copy any record, report or investigation which is filed with the  
750 youth court.

751 (5) (a) The youth court prosecutor or prosecutors, the  
752 county attorney, the district attorney, the youth court defender  
753 or defenders, or any attorney representing a child shall have the  
754 right to inspect any law enforcement record involving children.

755 (b) The Department of Human Services shall disclose to  
756 a county prosecuting attorney or district attorney any and all  
757 records resulting from an investigation into suspected child abuse  
758 or neglect when the case has been referred by the Department of  
759 Human Services to the county prosecuting attorney or district  
760 attorney for criminal prosecution.

761 (c) Agency records made confidential under the  
762 provisions of this section may be disclosed to a court of  
763 competent jurisdiction.

764 (6) Information concerning an investigation into a report of  
765 child abuse or child neglect may be disclosed by the Department of  
766 Human Services without order of the youth court to any attorney,  
767 physician, dentist, intern, resident, nurse, psychologist, social  
768 worker, child care giver, minister, law enforcement officer,  
769 public or private school employee making that report pursuant to  
770 Section 43-21-353(1) if the reporter has a continuing professional  
771 relationship with the child and a need for such information in  
772 order to protect or treat the child.

773 (7) Information concerning an investigation into a report of

774 child abuse or child neglect may be disclosed without further  
775 order of the youth court to any interagency child abuse task force  
776 established in any county or municipality by order of the youth  
777 court of that county or municipality.

778 (8) Names and addresses of juveniles twice adjudicated as  
779 delinquent for an act which would be a felony if committed by an  
780 adult or for the unlawful possession of a firearm shall not be  
781 held confidential and shall be made available to the public.

782 (9) Names and addresses of juveniles adjudicated as  
783 delinquent for murder, manslaughter, burglary, arson, armed  
784 robbery, aggravated assault, any sex offense as defined in Section  
785 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
786 violation of Section 63-11-30, shall not be held confidential and  
787 shall be made available to the public.

788 (10) The judges of the circuit and county courts, and  
789 presentence investigators for the circuit courts, as provided in  
790 Section 47-7-9, shall have the right to inspect any youth court  
791 records of a person convicted of a crime for sentencing purposes  
792 only.

793 (11) The victim of an offense committed by a child who is  
794 the subject of a youth court cause shall have the right to be  
795 informed of the child's disposition by the youth court.

796 (12) The Classification Committee of the State Department of  
797 Corrections, as provided in Section 47-5-103, shall have the right  
798 to inspect any youth court records, excluding abuse and neglect  
799 records, of any offender in the custody of the department who as a  
800 child or minor was a juvenile offender or was the subject of a  
801 youth court cause of action, and the State Parole Board, as  
802 provided in Section 47-7-17, shall have the right to inspect such  
803 records when said offender becomes eligible for parole.

804 (13) The youth court shall notify the Department of Public  
805 Safety of the name, and any other identifying information such  
806 department may require, of any child who is adjudicated delinquent



807 as a result of a violation of the Uniform Controlled Substances  
808 Law.

809 (14) The Administrative Office of Courts shall have the  
810 right to inspect any youth court records in order that the number  
811 of youthful offenders, abused, neglected, truant and dependent  
812 children, as well as children in need of special care and children  
813 in need of supervision, may be tracked with specificity through  
814 the youth court and adult justice system, and to utilize tracking  
815 forms for such purpose.

816 (15) Upon a request by a youth court, the Administrative  
817 Office of Courts shall disclose all information at its disposal  
818 concerning any previous youth court intakes alleging that a child  
819 was a delinquent child, child in need of supervision, child in  
820 need of special care, truant child, abused child or neglected  
821 child, as well as any previous youth court adjudications for the  
822 same and all dispositional information concerning a child who at  
823 the time of such request comes under the jurisdiction of the youth  
824 court making such request.

825 (16) In every case where an abuse or neglect allegation has  
826 been made, the confidentiality provisions of this section shall  
827 not apply to prohibit access to a child's records by any state  
828 regulatory agency, any state or local prosecutorial agency or law  
829 enforcement agency; provided, however, that no identifying  
830 information concerning the child in question may be released to  
831 the public by such agency except as otherwise provided herein.

832 (17) In every case where there is any indication or  
833 suggestion of either abuse or neglect and a child's physical  
834 condition is medically labeled as medically "serious" or  
835 "critical" or a child dies, the confidentiality provisions of this  
836 section shall not apply.

837 (18) Any member of a foster care review board designated by  
838 the Department of Human Services shall have the right to inspect  
839 youth court records relating to the abuse, neglect or child in

840 need of supervision cases assigned to such member for review.

841 SECTION 24. Section 37-3-51, Mississippi Code of 1972, is  
842 amended as follows:

843 37-3-51. (1) Upon the conviction of any certificated  
844 personnel as defined in Section 37-19-7, employed by a public or  
845 private elementary or secondary school, of any felony, or of a sex  
846 offense as defined in subsection (2) of this section, the district  
847 attorney or other prosecuting attorney shall identify those  
848 defendants for the circuit clerk. Each circuit clerk shall  
849 provide the State Department of Education with notice of the  
850 conviction of any such personnel of a felony or a sex offense.

851 (2) "Sex offense" shall mean any of the following offenses:

852 (a) Section 97-3-65, Mississippi Code of 1972, relating  
853 to the carnal knowledge of a child under fourteen (14) years of  
854 age;

855 (b) Section 97-3-95, Mississippi Code of 1972, relating  
856 to sexual battery;

857 (c) Section 97-5-21, Mississippi Code of 1972, relating  
858 to seduction of a child under age eighteen (18);

859 (d) Section 97-5-23, Mississippi Code of 1972, relating  
860 to the touching of a child for lustful purposes;

861 (e) Section 97-5-27, Mississippi Code of 1972, relating  
862 to the dissemination of sexually oriented material to children;

863 (f) Section 97-5-33, Mississippi Code of 1972, relating  
864 to the exploitation of children;

865 (g) Section 97-5-41, Mississippi Code of 1972, relating  
866 to the carnal knowledge of a stepchild, adopted child, or child of  
867 a cohabitating partner;

868 (h) Section 97-29-59, Mississippi Code of 1972,  
869 relating to unnatural intercourse; or

870 (i) Any other offense committed in another jurisdiction  
871 which, if committed in this state, would be deemed to be such a  
872 crime without regard to its designation elsewhere.

873           (3) In addition, the State Department of Education is  
874 considered to be the employer of such personnel for purposes of  
875 requesting a criminal \* \* \* record background checks.

876           SECTION 25. Section 43-16-9, Mississippi Code of 1972, is  
877 amended as follows:

878           43-16-9. Such notification shall be filed by the executive  
879 director of the child residential home to the department upon  
880 forms provided by the department and shall contain the following  
881 information:

882           (a) Name, street address, mailing address and phone  
883 number of the home.

884           (b) Name of the executive director and all staff  
885 members of the home.

886           (c) Name and description of the agency or organization  
887 operating the home, which shall include a statement as to whether  
888 or not the agency or organization is incorporated.

889           (d) Name and address of the sponsoring organization of  
890 the home, if applicable.

891           (e) The names of all children living at the home which  
892 shall include the following personal data:

893           (i) Full name and a copy of the child's birth  
894 certificate;

895           (ii) Name and address of parent(s) or guardian(s);

896 and

897           (iii) Name and address of other nearest relative.

898           (f) School(s) attended by the children served by such  
899 home.

900           (g) Fire department or State Fire Marshal inspection  
901 certificate.

902           (h) Local health department inspection certificate.

903           (i) Proof, to be shown by the sworn affidavit of the

904 executive director of the home, that the home has \* \* \* performed

905 (i) \* \* \* criminal \* \* \* record background checks, and (ii) felony

906 conviction record information checks on all employees, prospective  
907 employees, volunteers and prospective volunteers at such home, and  
908 that such records are maintained to the extent permitted by law,  
909 for every such employee, prospective employee, volunteer and  
910 prospective volunteer.

911 (j) Proof, to be shown by the sworn affidavit of the  
912 executive director of the home, that medical records are  
913 maintained for each child.

914 SECTION 26. Section 43-20-8, Mississippi Code of 1972, is  
915 amended as follows:

916 43-20-8. (1) The licensing agency shall have powers and  
917 duties as set forth below in addition to other duties prescribed  
918 under this chapter:

919 (a) Promulgate rules and regulations concerning the  
920 licensing and regulation of child care facilities as defined  
921 herein;

922 (b) Have the authority to issue, deny, suspend, revoke,  
923 restrict or otherwise take disciplinary action against licensees  
924 as provided for in this chapter;

925 (c) Set and collect fees and penalties as provided for  
926 in this chapter; and

927 (d) Have such other powers as may be required to carry  
928 out the provisions of this chapter.

929 (2) Child care facilities shall assure that parents have  
930 welcome access to the child care facility at all times.

931 (3) Child care facilities shall require that, for any  
932 current or prospective caregiver, current \* \* \* criminal records  
933 background checks and current child abuse registry checks are  
934 obtained \* \* \*. In order to determine the applicant's suitability  
935 for employment, the applicant shall be fingerprinted. If no  
936 disqualifying record is identified at the state level, the  
937 fingerprints shall be forwarded by the Department of Public Safety  
938 to the FBI for a national criminal history record check.

939           (4) The licensing agency shall require to be performed a  
940 felony conviction records check, a sex offense criminal records  
941 check and a child abuse registry check for any owner/operator of a  
942 child care facility and any person living in a residence used for  
943 child care. In order to determine the applicant's suitability for  
944 employment, the applicant shall be fingerprinted. If no  
945 disqualifying record is identified at the state level, the  
946 fingerprints shall be forwarded by the Department of Public Safety  
947 to the FBI for a national criminal history record check.

948           SECTION 27. Section 43-20-57, Mississippi Code of 1972, is  
949 amended as follows:

950           43-20-57. (1) No person shall knowingly maintain a family  
951 child care home if, in such family child care home, there resides,  
952 works or regularly volunteers any person who:

953                   (a) (i) Has a felony conviction for a crime against  
954 persons;

955                           (ii) Has a felony conviction under the Uniform  
956 Controlled Substances Act;

957                           (iii) Has a conviction for a crime of child abuse  
958 or neglect;

959                           (iv) Has a conviction for any sex offense as  
960 defined in Section 45-33-23, Mississippi Code of 1972; or

961                           (v) Any other offense committed in another  
962 jurisdiction or any federal offense which, if committed in this  
963 state, would be deemed to be such a crime without regard to its  
964 designation elsewhere;

965                   (b) Has been adjudicated a juvenile offender because of  
966 having committed an act which if done by an adult would constitute  
967 the commission of a felony and which is a crime against persons;

968                   (c) Has had a child declared in a court order in this  
969 or any other state to be deprived or a child in need of care based  
970 on an allegation of physical, mental or emotional abuse or neglect  
971 or sexual abuse;

972 (d) Has had parental rights terminated pursuant to  
973 Section 93-15-101 et seq., Mississippi Code of 1972; or

974 (e) Has an infectious or contagious disease, as defined  
975 by the State Department of Health pursuant to Section 41-23-1,  
976 Mississippi Code of 1972.

977 (2) No person shall maintain a family child care home if  
978 such person has been found to be a disabled person in need of a  
979 guardian or conservator, or both.

980 (3) Any person who resides in the home and who has been  
981 found to be a disabled person in need of a guardian or  
982 conservator, or both, shall be included in the total number of  
983 children allowed in care.

984 (4) In accordance with the provision of this subsection (4),  
985 the State Department of Health shall have access to any court  
986 orders or adjudications of any court of record, any records of  
987 such orders or adjudications, criminal history record information  
988 in the possession of the Mississippi Highway Safety Patrol or  
989 court of this state concerning persons working, regularly  
990 volunteering or residing in a family child care home. The  
991 department shall have access to these records for the purpose of  
992 determining whether or not the home meets the requirements of  
993 Sections 43-20-51 through 43-20-65.

994 (5) No family child care home or its employees shall be  
995 liable for civil damages to any person refused employment or  
996 discharged from employment by reason of such home's compliance  
997 with the provisions of this section if such home acts in good  
998 faith to comply with this section.

999 SECTION 28. Section 43-21-623, Mississippi Code of 1972, is  
1000 amended as follows:

1001 43-21-623. Any juvenile who is adjudicated a delinquent on  
1002 or after July 1, 1994, as a result of committing a sex offense as  
1003 defined in Section 45-33-23 or any offense involving the crime of  
1004 rape and placed in the custody of the Mississippi Department of

1005 Human Services, Office of Youth Services, shall be tested for HIV  
1006 and AIDS. Such tests shall be conducted by the State Department  
1007 of Health in conjunction with the Office of Youth Services,  
1008 Mississippi Department of Human Services at the request of the  
1009 victim or the victim's parents or guardian if the victim is a  
1010 juvenile. The results of any positive HIV or AIDS tests shall be  
1011 reported to the victim or the victim's parents or guardian if the  
1012 victim is a juvenile as well as to the adjudicated offender. The  
1013 State Department of Health shall provide counseling and referral  
1014 to appropriate treatment for victims of a sex offense when the  
1015 adjudicated offender tested positive for HIV or AIDS if the victim  
1016 so requests.

1017 SECTION 29. Section 99-19-201, Mississippi Code of 1972, is  
1018 amended as follows:

1019 99-19-201. The following terms shall have the meanings  
1020 ascribed to them herein unless the context requires otherwise:

1021 (a) "AIDS" means acquired immunodeficiency syndrome,  
1022 AIDS related complex and any similar disease.

1023 (b) "HIV" means the human immunodeficiency virus or any  
1024 other identified causative agent of AIDS.

1025 (c) "Sex offense" means any offense described in  
1026 Section 45-33-23 or any offense involving the crime of rape.

1027 (d) "Test" means a test to determine the presence of  
1028 the AIDS disease or the presence of the antibody or antigen to HIV  
1029 or the presence of HIV infection.

1030 SECTION 30. This act shall take effect and be in force from  
1031 and after July 1, 2000.