

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2248

1 AN ACT TO AMEND SECTION 41-29-501, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF "PROSECUTOR" UNDER THE WIRETAPPING  
3 LAW; AND FOR RELATED PURPOSES.

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

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

7 41-29-501. As used in this article, the following terms  
8 shall have the meaning ascribed to them herein unless the context  
9 requires otherwise:

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

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

16 (c) "Contents," when used with respect to a wire, oral  
17 or other communication, includes any information concerning the  
18 identity of the parties to the communication or the existence,  
19 substance, purport or meaning of that communication.

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

23 (e) "Director" means the Director of the Bureau of  
24 Narcotics or, if the director is absent or unable to serve, the  
25 Assistant Director of the Bureau of Narcotics.

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

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

32           (h) "Investigative or law enforcement officer" means an  
33 officer of this state or of a political subdivision of this state  
34 who is empowered by law to conduct investigations of, or to make  
35 arrests for, offenses enumerated in Section 41-29-505, or an  
36 attorney authorized by law to prosecute or participate in the  
37 prosecution of such offenses.

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

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

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

51           (l) "Prosecutor" means the district attorney or, when  
52 designated in writing by the district attorney on a case-by-case  
53 basis, a legal assistant to the district attorney, of the county  
54 in which the facility or place where the communication to be  
55 intercepted is located or, at the discretion of the director, in  
56 an adjoining county.

57           (m) "Residence" means a structure or the portion of a  
58 structure used as a person's home or fixed place of habitation to

59 which the person indicates an intent to return after any temporary  
60 absence.

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

71 **SECTION 2.** This act shall take effect and be in force from  
72 and after July 1, 2005.