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 Carlton, Chism, Denny, Ellington, Fillingane,
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To: Judiciary B

HOUSE BILL NO. 1239

1 AN ACT TO CREATE THE SEX OFFENDER ESTIMATING CONFERENCE AND
 2 SPECIFY THE DUTIES THEREOF; TO AMEND SECTION 45-33-25, MISSISSIPPI
 3 CODE OF 1972, TO REQUIRE ADDITIONAL INFORMATION FROM SEX OFFENDERS
 4 WHO ARE REQUIRED TO REGISTER; TO AMEND SECTION 45-33-31,
 5 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF PUBLIC
 6 SAFETY TO DEVELOP AND IMPLEMENT A VERIFICATION SYSTEM FOR THE
 7 REGISTRATION INFORMATION GIVEN BY SEX OFFENDERS; TO AMEND SECTION
 8 45-33-33, MISSISSIPPI CODE OF 1972, TO CREATE THE CRIME OF
 9 CONSPIRING WITH A SEX OFFENDER TO ELUDE REGISTRATION AND OF
 10 PROVIDING FALSE REGISTRATION INFORMATION; TO AMEND SECTION
 11 45-33-47, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
 12 SECTION 45-33-49, MISSISSIPPI CODE OF 1972, TO REQUIRE SHARING OF
 13 REGISTRATION INFORMATION BETWEEN LAW ENFORCEMENT AGENCIES; TO
 14 CREATE NEW SECTION 47-5-1017, MISSISSIPPI CODE OF 1972, TO PROVIDE
 15 FOR ELECTRONIC MONITORING OF SEX OFFENDERS; TO CREATE NEW SECTION
 16 47-5-1019, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PUNISHMENT FOR
 17 TAMPERING WITH AN ELECTRONIC MONITORING DEVICE; TO CREATE NEW
 18 SECTION 47-7-32, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 19 DEPARTMENT OF CORRECTIONS TO STUDY INSTANCES OF SEX OFFENDERS WHO
 20 ARE SUBSEQUENTLY ARRESTED; TO AMEND SECTION 47-7-33, MISSISSIPPI
 21 CODE OF 1972, TO REQUIRE ELECTRONIC MONITORING OF CERTAIN PAROLEES
 22 AND PROBATIONERS; TO AMEND SECTION 47-7-34, MISSISSIPPI CODE OF
 23 1972, TO CONFORM TO ELECTRONIC MONITORING; TO AMEND SECTION
 24 47-7-35, MISSISSIPPI CODE OF 1972, TO MANDATE ELECTRONIC
 25 MONITORING UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 47-7-37,
 26 MISSISSIPPI CODE OF 1972, TO ENACT CERTAIN RESTRICTIONS ON THE
 27 IMPOSITION OF BAIL FOR PERSONS WHO ARE REQUIRED TO REGISTER AS SEX
 28 OFFENDERS; TO AMEND SECTION 97-5-23, MISSISSIPPI CODE OF 1972, TO
 29 IMPOSE A MORE SEVERE PENALTY ON FOR FONDLING WHEN THE VICTIM IS
 30 BELOW A CERTAIN AGE; TO CONFORM TO THE ELECTRONIC MONITORING
 31 REQUIREMENTS OF THIS ACT; TO AMEND SECTIONS 97-3-53, 97-3-65,
 32 97-3-71, 97-3-101, 97-5-27, 97-5-35, 97-5-41, 97-29-3 AND
 33 97-29-59, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE ELECTRONIC
 34 MONITORING REQUIREMENTS OF THIS ACT; TO CREATE NEW SECTION
 35 99-19-84, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ELECTRONIC
 36 MONITORING FOR SEX OFFENDERS; TO AMEND SECTION 99-19-101,
 37 MISSISSIPPI CODE OF 1972, TO SPECIFY THAT CERTAIN SEX OFFENSES ARE
 38 AN AGGRAVATING CIRCUMSTANCE IN SENTENCING FOR A CAPITAL OFFENSE;
 39 TO CREATE NEW SECTION 99-19-205, MISSISSIPPI CODE OF 1972, TO
 40 MANDATE ELECTRONIC SUPERVISION FOR CERTAIN SEX OFFENDERS UPON
 41 EXPIRATION OF ANY TERM OF INCARCERATION; TO REQUIRE THE DEPARTMENT
 42 OF PUBLIC SAFETY TO STUDY THE SEX OFFENDER REGISTRY SYSTEM AND THE
 43 PEER COMMITTEE TO PERIODICALLY REVIEW THE SYSTEM; AND FOR RELATED
 44 PURPOSES.

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

46 **SECTION 1.** (1) The Sex Offender Estimating Conference is
 47 hereby created. The purpose of the Sex Offender Estimating
 48 Conference shall be to develop such official information relating

49 to the number of sex offenders who are subject to electronic
50 monitoring as the conference determines is needed for the state
51 planning and budgeting system.

52 (2) The conference shall consist of the following members:
53 the Commissioner of the Department of Corrections or his designee;
54 the Commissioner of the Department of Public Safety or his
55 designee; the Director of the Administrative Office of Courts; the
56 Director of the Department of Finance and Administration or his
57 designee; the Director of the Legislative Budget Office or his
58 designee; the Attorney General or his designee; a member of the
59 Governor's staff appointed by the Governor who shall preside over
60 meetings of the conference and exercise the authority to call
61 meetings.

62 **SECTION 2.** The Sex Offender Estimating Conference created in
63 Section 1 of this act shall study the factors relating to the
64 sentencing of sex offenders from the point of arrest through the
65 imposition of sanctions by the sentencing court, including
66 original charges, plea negotiations, trial dispositions and
67 sanctions. The Department of Corrections, Department of Finance
68 and Administration, Administrative Office of Courts, Department of
69 Public Safety, Office of the Attorney General and the various
70 district attorneys shall provide information deemed necessary for
71 the study. The final report shall be filed with the Clerk of the
72 House and the Secretary of the Senate no later than November 1,
73 2006.

74 **SECTION 3.** Section 45-33-25, Mississippi Code of 1972, is
75 amended as follows:

76 45-33-25. (1) Any person residing in this state who has
77 been convicted of any sex offense or attempted sex offense or who
78 has been acquitted by reason of insanity for any sex offense or
79 attempted sex offense or twice adjudicated delinquent for any sex
80 offense or attempted sex offense shall register with the
81 Mississippi Department of Public Safety. Registration shall not

82 be required for an offense that is not a registrable sex offense.
83 The department shall provide the initial registration information
84 as well as every change of address to the sheriff of the county of
85 the residence address of the registrant through either written
86 notice, electronic or telephone transmissions, or online access to
87 registration information. Further, the department shall provide
88 this information to the Federal Bureau of Investigation.
89 Additionally, upon notification by the registrant that he intends
90 to reside outside the State of Mississippi, the department shall
91 notify the appropriate state law enforcement agency of any state
92 to which a registrant is moving or has moved.

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

95 (a) Name, including a former name which has been
96 legally changed;

97 (b) Street address of any permanent residence and of
98 any current temporary residence within state or out of state;

99 (c) Date and place of employment;

100 (d) Crime for which convicted;

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

103 (f) Aliases used;

104 (g) Social security number;

105 (h) Date and place of birth;

106 (i) Age, race, sex, height, weight, and hair and eye
107 colors;

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

110 (k) Identifying factors;

111 (l) Anticipated future residence;

112 (m) If the registrant's residence is a motor vehicle,
113 trailer, mobile home or manufactured home, the registrant shall
114 also provide vehicle identification number, license tag number,

115 registration number and a description, including color scheme, of
116 the motor vehicle, trailer, mobile home or manufactured home; if
117 the registrant's place of residence is a vessel or houseboat, the
118 registrant shall also provide the hull identification number,
119 manufacturer's serial number, name of the vessel or houseboat,
120 registration number and a description, including color scheme, of
121 the vessel or houseboat;

122 (n) Vehicle make, model, color and license tag number;

123 (o) Offense history;

124 (p) Photograph;

125 (q) Fingerprints;

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

128 (s) Biological sample;

129 (t) Name of any institution of higher learning,
130 including each campus attended at which the offender is employed,
131 carries on a vocation (with or without compensation) or is
132 enrolled as a student, and the registrant's status; and

133 (u) Any other information deemed necessary.

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

138 **SECTION 4.** Section 45-33-31, Mississippi Code of 1972, is
139 amended as follows:

140 45-33-31. (1) All registrants are required to personally
141 appear at a Department of Public Safety Driver's License Station
142 to reregister every ninety (90) days. Reregistration includes the
143 submission of current information to the department and the
144 verification of registration information, including the street
145 address and telephone number of the registrant; name, social
146 security number, street address and telephone number of the
147 registrant's employment along with any other registration

148 information that may need to be verified and the payment of any
149 required fees. A person who fails to reregister as required by
150 this section commits a violation of this chapter.

151 (2) The department shall implement a system for verifying
152 the addresses of registrants. The system must be consistent with
153 the provisions of the federal Jacob Wetterling Act, as amended,
154 and any other federal standards applicable to such verification or
155 required to be met as a condition for the receipt of federal funds
156 by the state. County and local law enforcement agencies, in
157 conjunction with the department, shall verify the addresses of
158 registrants who are not under the care, custody, control or
159 supervision of the Department of Corrections.

160 **SECTION 5.** Section 45-33-33, Mississippi Code of 1972, is
161 amended as follows:

162 45-33-33. (1) (a) The failure of an offender to personally
163 appear at a Department of Public Safety Driver's License Station
164 or to provide any registration or other information, including,
165 but not limited to, initial registration, reregistration or change
166 of address information, or required notification to a volunteer
167 organization, as required by this chapter, is a violation of the
168 law. Additionally, forgery of information or submission of
169 information under false pretenses is also a violation of the law.

170 (b) Any person who has reason to believe that a sex
171 offender is not complying, or has not complied, with the
172 requirements of this chapter and who, with the intent to assist
173 the sex offender in eluding a law enforcement agency that is
174 seeking to find the sex offender to question the sex offender
175 about, or to arrest the sex offender for, noncompliance with the
176 requirements of this chapter, commits a violation of this chapter;

177 (c) A person commits a violation of this chapter who:

178 (i) Withholds information from, or does not
179 notify, the law enforcement agency about the sex offender's

180 noncompliance with the requirements of this chapter, and, if
181 known, the whereabouts of the sex offender;

182 (ii) Harbors, or attempts to harbor, or assists
183 another person in harboring or attempting to harbor, the sex
184 offender;

185 (iii) Conceals, or attempts to conceal, or assists
186 another person in concealing or attempting to conceal, the sex
187 offender; or

188 (iv) Provides information to a law enforcement
189 agency regarding the sex offender which the person knows to be
190 false.

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

196 (3) Whenever it appears that an offender has failed to
197 comply with the duty to register or reregister, the department
198 shall promptly notify the sheriff of the county of the last known
199 address of the offender. Upon notification, the sheriff shall
200 attempt to locate the offender at his last known address.

201 (a) If the sheriff locates the offender, he shall
202 enforce the provisions of this chapter. The sheriff shall then
203 notify the department with the current information regarding the
204 offender.

205 (b) If the sheriff is unable to locate the offender,
206 the sheriff shall promptly notify the department and initiate a
207 criminal prosecution against the offender for the failure to
208 register or reregister. The sheriff shall make the appropriate
209 transactions into the Federal Bureau of Investigation's
210 wanted-person database.

211 (4) A first violation of this chapter may result in the
212 arrest of the offender. Upon any second or subsequent violation
213 of this chapter, the offender shall be arrested for the violation.

214 (5) Any prosecution for a violation of this section shall be
215 brought by a prosecutor in the county of the violation.

216 (6) A person required to register under this chapter who
217 commits any act or omission in violation of this chapter may be
218 prosecuted for the act or omission in the county in which the act
219 or omission was committed, the county of the last registered
220 address of the sex offender, or the county in which the conviction
221 occurred for the offense or offenses that meet the criteria
222 requiring the person to register. A sex offender may be
223 prosecuted for any such act or omission in the county in which he
224 was designated a sex offender.

225 (7) The Commissioner of Public Safety or his authorized
226 agent shall suspend the driver's license of any offender failing
227 to comply with the duty to report, register or reregister.

228 **SECTION 6.** Section 45-33-47, Mississippi Code of 1972, is
229 amended as follows:

230 45-33-47. (1) A sex offender with a duty to register under
231 Section 45-33-25 shall only be relieved of the duty under
232 subsection (2) of this section.

233 (2) A person having a duty to register under Section
234 45-33-25 may petition the circuit court of the county in which the
235 registrant resides to be relieved of that duty under the following
236 conditions:

237 (a) The offender has maintained his registration in
238 Mississippi for not less than ten (10) years from the most recent
239 date of occurrence of at least one (1) of the following: release
240 from prison, placement on parole, supervised release or probation.
241 Incarceration for any offense will restart the ten-year minimum
242 registration requirement. Registration in any other jurisdiction

243 or state does not reduce the ten-year time requirement for
244 maintaining registration in Mississippi.

245 (b) If the offender has been convicted of one (1) of
246 the following offenses, the offender is subject to lifetime
247 registration and shall not be relieved of the duty to register:

248 (i) Section 97-3-65 relating to rape;

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

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

252 (iv) Subsection (1) or (2) of Section 97-5-33
253 relating to the exploitation of children;

254 (v) Section 97-5-41 relating to the carnal
255 knowledge of a stepchild, adopted child or child of a cohabiting
256 partner; or

257 (vi) Any conviction for violation of a similar law
258 of another jurisdiction or designation as a sexual predator in
259 another jurisdiction.

260 (c) An offender who has two (2) separate convictions
261 for any of the offenses described in Section 45-33-23 is subject
262 to lifetime registration and shall not be eligible to petition to
263 be relieved of the duty to register as long as at least one (1) of
264 the convictions was entered on or after July 1, 1995.

265 * * *

266 (d) An offender twice adjudicated delinquent in a youth
267 court for the crime of rape pursuant to Section 96-3-65 or sexual
268 battery pursuant to Section 97-3-95 is subject to lifetime
269 registration and shall not be eligible to petition to be relieved
270 of the duty to register except as is provided in subsection (2)(b)
271 of this section.

272 (e) Registration following arrest or arraignment for
273 failure to register is not a defense and does not relieve the sex
274 offender of criminal liability for failure to register.

275 (3) In determining whether to release an offender from the
276 obligation to register, the court shall consider the nature of the
277 registrable offense committed and the criminal and relevant
278 noncriminal behavior of the petitioner both before and after
279 conviction. The court may relieve the offender of the duty to
280 register only if the petitioner shows, by clear and convincing
281 evidence, that the registrant properly maintained his registration
282 as required by law and that future registration of the petitioner
283 will not serve the purposes of this chapter and the court is
284 otherwise satisfied that the petitioner is not a current or
285 potential threat to public safety. The district attorney in the
286 circuit in which the petition is filed must be given notice of the
287 petition at least three (3) weeks before the hearing on the
288 matter. The district attorney may present evidence in opposition
289 to the requested relief or may otherwise demonstrate the reasons
290 why the petition should be denied. If the court denies the
291 petition, the court may set a future date at which the sex
292 offender may again petition the court for relief, subject to the
293 standards set forth in this section.

294 (4) The offender will be required to continue registration
295 for any sex offense conviction unless the conviction is set aside
296 in any post-conviction proceeding, the offender receives a pardon,
297 or the charge is dismissed. Upon submission of the appropriate
298 documentation to the department of one (1) of these occurrences,
299 registration duties will be discontinued.

300 **SECTION 7.** Section 45-33-49, Mississippi Code of 1972, is
301 amended as follows:

302 45-33-49. (1) Records maintained pursuant to this chapter
303 shall be open to law enforcement agencies which shall be
304 authorized to release relevant and necessary information regarding
305 sex offenders to the public.

306 (2) The identity of a victim of an offense that requires
307 registration under this chapter shall not be released.

308 (3) A sheriff shall maintain records for registrants of the
309 county and shall make available to any person upon request the
310 name, address, place of employment, crime for which convicted,
311 date and place of conviction of any registrant, and any other
312 information deemed necessary for the protection of the public.
313 The sheriffs shall be responsible for verifying their respective
314 registries annually against the department's records to ensure
315 current information is available at both levels.

316 (4) Upon written request, the department may also provide to
317 any person the name, address, photograph, if available, date of
318 photograph, place of employment, crime for which convicted, date
319 and place of conviction of any registrant, hair, eye color,
320 height, race, sex and date of birth of any registrant, and any
321 other information deemed necessary for the protection of the
322 public. Additionally, the department may utilize an Internet
323 website or other electronic means to release the information.

324 (5) The Department of Education, the Mississippi Private
325 School Association and the Department of Health shall notify all
326 schools and licensed day care centers annually regarding the
327 availability upon request of this information.

328 (6) Nothing in this section shall be construed to prevent
329 law enforcement officers from notifying members of the public
330 exposed to danger of any circumstances or individuals that pose a
331 danger under circumstances that are not enumerated in this
332 section.

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

337 (8) The Department of Public Safety shall share sex offender
338 information with local law enforcement agencies in an effort to
339 ensure that sex offenders who fail to respond to address
340 verification attempts or who otherwise abscond from registration

341 are located in a timely manner. The department shall use
342 analytical resources to assist local law enforcement agencies to
343 determine the potential whereabouts of any sex offender who fails
344 to respond to address verification attempts or who otherwise
345 absconds from registration. The department shall review and
346 analyze all available information concerning any such offender who
347 fails to respond to address verification attempts or who otherwise
348 absconds from registration and provide the information to local
349 law enforcement agencies in order to assist the agencies in
350 locating and apprehending the sex offender.

351 (9) The department shall provide, through a toll-free
352 telephone number, public access to registration information
353 regarding sex offenders and may provide other information reported
354 to the department which is not exempt from public disclosure.

355 **SECTION 8.** The following shall be codified as Section
356 47-5-1017, Mississippi Code of 1972:

357 47-5-1017. The department shall electronically monitor an
358 offender pursuant to Section 99-19-84. The department, in
359 carrying out a court order to electronically monitor an offender,
360 must use a system that actively monitors and identifies the
361 offender's location and timely reports or records the offender's
362 presence near or within a crime scene or in prohibited areas or
363 the offender's departure from specified geographic limitations.

364 **SECTION 9.** The following shall be codified as Section
365 47-5-1019, Mississippi Code of 1972:

366 47-5-1019. A person who intentionally alters, tampers with,
367 damages or destroys any electronic monitoring equipment, unless
368 the person is the owner of the equipment or an agent of the owner
369 performing ordinary maintenance and repairs, commits a felony
370 punishable by imprisonment not to exceed five (5) years in the
371 custody of the Department of Corrections.

372 **SECTION 10.** The following shall be codified as Section
373 47-7-32, Mississippi Code of 1972:

374 47-7-32. (1) The Department of Corrections shall review the
375 circumstances related to any offender placed on supervision who is
376 subject to registration as a sex offender under Title 45, Chapter
377 33, who is subsequently arrested.

378 (2) The department shall provide a statistical data summary
379 from these reviews to the Joint Committee on Performance
380 Evaluation and Expenditure Review which shall analyze this data
381 and file a written report with the Secretary of the Senate and the
382 Clerk of the House of Representatives by November 1, 2007. The
383 report must include, at a minimum, any identified systemic
384 deficiencies in managing high-risk offenders on supervision; any
385 patterns of noncompliance by probation and parole officers; and
386 recommendations for improving the department's supervision of
387 offenders.

388 **SECTION 11.** Section 47-7-33, Mississippi Code of 1972, is
389 amended as follows:

390 47-7-33. (1) When it appears to the satisfaction of any
391 circuit court or county court in the State of Mississippi having
392 original jurisdiction over criminal actions, or to the judge
393 thereof, that the ends of justice and the best interest of the
394 public, as well as the defendant, will be served thereby, such
395 court, in termtime or in vacation, shall have the power, after
396 conviction or a plea of guilty, except in a case where a death
397 sentence or life imprisonment is the maximum penalty which may be
398 imposed or where the defendant has been convicted of a felony on a
399 previous occasion in any court or courts of the United States and
400 of any state or territories thereof, to suspend the imposition or
401 execution of sentence, and place the defendant on probation as
402 herein provided, except that the court shall not suspend the
403 execution of a sentence of imprisonment after the defendant shall
404 have begun to serve such sentence. In placing any defendant on
405 probation, the court, or judge, shall direct that such defendant
406 be under the supervision of the Department of Corrections.

407 (2) When any circuit or county court places an offender on
408 probation, the court shall give notice to the Mississippi
409 Department of Corrections within fifteen (15) days of the court's
410 decision to place the offender on probation. Notice shall be
411 delivered to the central office of the Mississippi Department of
412 Corrections and to the regional office of the department which
413 will be providing supervision to the offender on probation.

414 (3) When any circuit court or county court places a person
415 on probation in accordance with the provisions of this section and
416 that person is ordered to make any payments to his family, if any
417 member of his family whom he is ordered to support is receiving
418 public assistance through the State Department of Public Welfare,
419 the court shall order him to make such payments to the county
420 welfare officer of the county rendering public assistance to his
421 family, for the sole use and benefit of said family.

422 (4) If probation or parole is revoked by the court and the
423 offender is designated as a sex offender for unlawful sexual
424 activity involving a victim under sixteen (16) years of age and
425 the offender is eighteen (18) years of age or older, and if the
426 court imposes a subsequent term of supervision following the
427 revocation of supervision, the court must order electronic
428 monitoring as a condition of any subsequent term of probation or
429 parole.

430 **SECTION 12.** Section 47-7-34, Mississippi Code of 1972, is
431 amended as follows:

432 47-7-34. (1) When a court imposes a sentence upon a
433 conviction for any felony committed after June 30, 1995, the
434 court, in addition to any other punishment imposed if the other
435 punishment includes a term of incarceration in a state or local
436 correctional facility, may impose a term of post-release
437 supervision. However, the total number of years of incarceration
438 plus the total number of years of post-release supervision shall
439 not exceed the maximum sentence authorized to be imposed by law

440 for the felony committed. The defendant shall be placed under
441 post-release supervision upon release from the term of
442 incarceration. The period of supervision shall be established by
443 the court.

444 (2) The period of post-release supervision shall be
445 conducted in the same manner as a like period of supervised
446 probation, including a requirement that the defendant shall abide
447 by any terms and conditions as the court may establish. Failure
448 to successfully abide by the terms and conditions shall be grounds
449 to terminate the period of post-release supervision and to
450 recommit the defendant to the correctional facility from which he
451 was previously released. Procedures for termination and
452 recommitment shall be conducted in the same manner as procedures
453 for the revocation of probation and imposition of a suspended
454 sentence.

455 (3) Post-release supervision programs shall be operated
456 through the probation and parole unit of the Division of Community
457 Corrections of the department. The maximum amount of time that
458 the Mississippi Department of Corrections may supervise an
459 offender on the post-release supervision program is five (5)
460 years.

461 (4) The provisions of this section shall not affect the
462 ability of a court to require electronic monitoring pursuant to
463 Section 99-19-84.

464 **SECTION 13.** Section 47-7-35, Mississippi Code of 1972, is
465 amended as follows:

466 47-7-35. (1) The courts referred to in Section 47-7-33 or
467 47-7-34 shall determine the terms and conditions of probation or
468 post-release supervision and may alter or modify, at any time
469 during the period of probation or post-release supervision the
470 conditions and may include among them the following or any other:

471 That the, offender shall:

472 (a) Commit no offense against the laws of this or any
473 other state of the United States, or of the United States;
474 (b) Avoid injurious or vicious habits;
475 (c) Avoid persons or places of disreputable or harmful
476 character;
477 (d) Report to the probation and parole officer as
478 directed;
479 (e) Permit the probation and parole officer to visit
480 him at home or elsewhere;
481 (f) Work faithfully at suitable employment so far as
482 possible;
483 (g) Remain within a specified area;
484 (h) Pay his fine in one (1) or several sums;
485 (i) Support his dependents;
486 (j) Submit, as provided in Section 47-5-601, to any
487 type of breath, saliva or urine chemical analysis test, the
488 purpose of which is to detect the possible presence of alcohol or
489 a substance prohibited or controlled by any law of the State of
490 Mississippi or the United States.

491 (2) When any court places a defendant on misdemeanor
492 probation, the court must cause to be conducted a search of the
493 probationer's name or other identifying information against the
494 registration information regarding sex offenders maintained under
495 Title 45, Chapter 33. The search may be conducted using the
496 Internet site maintained by the Department of Public Safety Sex
497 Offender Registry.

498 **SECTION 14.** Section 47-7-37, Mississippi Code of 1972, is
499 amended as follows:

500 47-7-37. The period of probation shall be fixed by the
501 court, and may at any time be extended or terminated by the court,
502 or judge in vacation. Such period with any extension thereof
503 shall not exceed five (5) years, except that in cases of desertion
504 and/or failure to support minor children, the period of probation

505 may be fixed and/or extended by the court for so long as the duty
506 to support such minor children exists.

507 At any time during the period of probation the court, or
508 judge in vacation, may issue a warrant for violating any of the
509 conditions of probation or suspension of sentence and cause the
510 probationer to be arrested. Any probation and parole officer may
511 arrest a probationer without a warrant, or may deputize any other
512 officer with power of arrest to do so by giving him a written
513 statement setting forth that the probationer has, in the judgment
514 of the probation and parole officer, violated the conditions of
515 probation. Such written statement delivered with the probationer
516 by the arresting officer to the official in charge of a county
517 jail or other place of detention shall be sufficient warrant for
518 the detention of the probationer.

519 If a probationer or offender is subject to registration as a
520 sex offender, the court must make a finding that the probationer
521 or offender is not a danger to the public prior to release with or
522 without bail. In determining the danger posed by the release of
523 the offender or probationer, the court may consider the nature and
524 circumstances of the violation and any new offenses charged; the
525 offender or probationer's past and present conduct, including
526 convictions of crimes and any record of arrests without conviction
527 for crimes involving violence or sex crimes; any other evidence of
528 allegations of unlawful sexual conduct or the use of violence by
529 the offender or probationer; the offender or probationer's family
530 ties, length of residence in the community, employment history and
531 mental condition; the offender or probationer's history and
532 conduct during the probation or other supervised release and any
533 other previous supervisions, including disciplinary records of
534 previous incarcerations; the likelihood that the offender or
535 probationer will engage again in a criminal course of conduct; the
536 weight of the evidence against the offender or probationer; and
537 any other facts the court considers relevant.

538 The probation and parole officer after making an arrest shall
539 present to the detaining authorities a similar statement of the
540 circumstances of violation. The probation and parole officer
541 shall at once notify the court of the arrest and detention of the
542 probationer and shall submit a report in writing showing in what
543 manner the probationer has violated the conditions of probation.
544 Thereupon, or upon an arrest by warrant as herein provided, the
545 court, in termtime or vacation, shall cause the probationer to be
546 brought before it and may continue or revoke all or any part of
547 the probation or the suspension of sentence, and may cause the
548 sentence imposed to be executed or may impose any part of the
549 sentence which might have been imposed at the time of conviction.

550 If the probationer is arrested in a circuit court district in
551 the State of Mississippi other than that in which he was
552 convicted, the probation and parole officer, upon the written
553 request of the sentencing judge, shall furnish to the circuit
554 court or the county court of the county in which the arrest is
555 made, or to the judge of such court, a report concerning the
556 probationer, and such court or the judge in vacation shall have
557 authority, after a hearing, to continue or revoke all or any part
558 of probation or all or any part of the suspension of sentence, and
559 may in case of revocation proceed to deal with the case as if
560 there had been no probation. In such case, the clerk of the court
561 in which the order of revocation is issued shall forward a
562 transcript of such order to the clerk of the court of original
563 jurisdiction, and the clerk of that court shall proceed as if the
564 order of revocation had been issued by the court of original
565 jurisdiction. Upon the revocation of probation or suspension of
566 sentence of any offender, such offender shall be placed in the
567 legal custody of the State Department of Corrections and shall be
568 subject to the requirements thereof.

569 Any probationer who removes himself from the State of
570 Mississippi without permission of the court placing him on

571 probation, or the court to which jurisdiction has been
572 transferred, shall be deemed and considered a fugitive from
573 justice and shall be subject to extradition as now provided by
574 law. No part of the time that one is on probation shall be
575 considered as any part of the time that he shall be sentenced to
576 serve.

577 The arresting officer, except when a probation and parole
578 officer, shall be allowed the same fees as now provided by law for
579 arrest on warrant, and such fees shall be taxed against the
580 probationer and paid as now provided by law.

581 The arrest, revocation and recommitment procedures of this
582 section also apply to persons who are serving a period of
583 post-release supervision imposed by the court.

584 **SECTION 15.** Section 97-5-23, Mississippi Code of 1972, is
585 amended as follows:

586 97-5-23. (1) Any person above the age of eighteen (18)
587 years, who, for the purpose of gratifying his or her lust, or
588 indulging his or her depraved licentious sexual desires, shall
589 handle, touch or rub with hands or any part of his or her body or
590 any member thereof, any child under the age of sixteen (16) years,
591 with or without the child's consent, or a mentally defective,
592 mentally incapacitated or physically helpless person as defined in
593 Section 97-3-97, shall be guilty of a felony and, upon conviction
594 thereof, shall be as follows: If the victim is over the age of
595 twelve (12) years but under the age of sixteen (16) years, the
596 offender shall be fined in a sum not less than One Thousand
597 Dollars (\$1,000.00) nor more than Five Thousand Dollars
598 (\$5,000.00), or be committed to the custody of the State
599 Department of Corrections not less than two (2) years nor more
600 than fifteen (15) years, or be punished by both such fine and
601 imprisonment, at the discretion of the court; if the victim is
602 under the age of twelve (12), the offender shall be committed to

603 the custody of the State Department of Corrections for life
604 without possibility of probation or parole.

605 (2) Any person above the age of eighteen (18) years, who,
606 for the purpose of gratifying his or her lust, or indulging his or
607 her depraved licentious sexual desires, shall handle, touch or rub
608 with hands or any part of his or her body or any member thereof,
609 any child younger than himself or herself who is at least sixteen
610 (16) years of age but under the age of eighteen (18) years who is
611 not such person's spouse, with or without the child's consent,
612 when the person occupies a position of trust or authority over the
613 child shall be guilty of a felony and, upon conviction thereof,
614 shall be fined in a sum not less than One Thousand Dollars
615 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be
616 committed to the custody of the State Department of Corrections
617 not less than two (2) years nor more than fifteen (15) years, or
618 be punished by both such fine and imprisonment, at the discretion
619 of the court. A person in a position of trust or authority over a
620 child includes without limitation a child's teacher, counselor,
621 physician, psychiatrist, psychologist, minister, priest, physical
622 therapist, chiropractor, legal guardian, parent, stepparent, aunt,
623 uncle, scout leader or coach.

624 (3) Upon a second conviction for an offense under this
625 section when the offense is subject to imprisonment of less than
626 life in prison without parole, the person so convicted shall be
627 punished by commitment to the State Department of Corrections for
628 a term not to exceed thirty (30) years, which sentence shall be
629 neither suspended nor reduced.

630 (4) The court shall require, as part of the sentence, a
631 person convicted under this section to be placed under electronic
632 monitoring upon release from incarceration for a period of time
633 not less than fifty percent (50%) of the amount of time that such
634 person was incarcerated.

635 **SECTION 16.** Section 97-3-53, Mississippi Code of 1972, is
636 amended as follows:

637 97-3-53. Any person who, without lawful authority and with
638 or without intent to secretly confine, shall forcibly seize and
639 confine any other person, or shall inveigle or kidnap any other
640 person with intent to cause such person to be confined or
641 imprisoned against his or her will, or without lawful authority
642 shall forcibly seize, inveigle or kidnap any child under the age
643 of sixteen (16) years against the will of the parents or guardian
644 or person having the lawful custody of the child, upon conviction
645 shall be imprisoned for life in the custody of the Department of
646 Corrections if the punishment is so fixed by the jury in its
647 verdict. If the jury fails to agree on fixing the penalty at
648 imprisonment for life, the court shall fix the penalty at not less
649 than one (1) year nor more than thirty (30) years in the custody
650 of the Department of Corrections and a minimum of ten (10) years
651 of electronic monitoring upon release from incarceration.

652 This section shall not be held to repeal, modify or amend any
653 other criminal statute of this state.

654 **SECTION 17.** Section 97-3-65, Mississippi Code of 1972, is
655 amended as follows:

656 97-3-65. (1) The crime of statutory rape is committed when:

657 (a) Any person seventeen (17) years of age or older has
658 sexual intercourse with a child who:

659 (i) Is at least fourteen (14) but under sixteen
660 (16) years of age;

661 (ii) Is thirty-six (36) or more months younger
662 than the person; and

663 (iii) Is not the person's spouse; or

664 (b) A person of any age has sexual intercourse with a
665 child who:

666 (i) Is under the age of fourteen (14) years;

667 (ii) Is twenty-four (24) or more months younger
668 than the person; and

669 (iii) Is not the person's spouse.

670 (2) Neither the victim's consent nor the victim's lack of
671 chastity is a defense to a charge of statutory rape.

672 (3) Upon conviction for statutory rape, the defendant shall
673 be sentenced as follows:

674 (a) If eighteen (18) years of age or older, but under
675 twenty-one (21) years of age, and convicted under subsection
676 (1)(a) of this section, to imprisonment for not more than five (5)
677 years in the State Penitentiary or a fine of not more than Five
678 Thousand Dollars (\$5,000.00), or both;

679 (b) If twenty-one (21) years of age or older and
680 convicted under subsection (1)(a) of this section, to imprisonment
681 of not more than thirty (30) years in the State Penitentiary or a
682 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,
683 for the first offense, and not more than forty (40) years in the
684 State Penitentiary for each subsequent offense;

685 (c) If eighteen (18) years of age or older and
686 convicted under subsection (1)(b) of this section, to imprisonment
687 for life in the State Penitentiary or such lesser term of
688 imprisonment as the court may determine, but not less than twenty
689 (20) years;

690 (d) If thirteen (13) years of age or older but under
691 eighteen (18) years of age and convicted under subsection (1)(a)
692 or (1)(b) of this section, such imprisonment, fine or other
693 sentence as the court, in its discretion, may determine.

694 (4) (a) Every person who shall have forcible sexual
695 intercourse with any person, or who shall have sexual intercourse
696 not constituting forcible sexual intercourse or statutory rape
697 with any person without that person's consent by administering to
698 such person any substance or liquid which shall produce such
699 stupor or such imbecility of mind or weakness of body as to

700 prevent effectual resistance, upon conviction, shall be imprisoned
701 for life in the State Penitentiary if the jury by its verdict so
702 prescribes; and in cases where the jury fails to fix the penalty
703 at life imprisonment, the court shall fix the penalty at
704 imprisonment in the State Penitentiary for any term as the court,
705 in its discretion, may determine.

706 (b) This subsection (4) shall apply whether the
707 perpetrator is married to the victim or not.

708 (5) In all cases where a victim is under the age of sixteen
709 (16) years, it shall not be necessary to prove penetration where
710 it is shown the genitals, anus or perineum of the child have been
711 lacerated or torn in the attempt to have sexual intercourse with
712 the child.

713 (6) For the purposes of this section, "sexual intercourse"
714 shall mean a joining of the sexual organs of a male and female
715 human being in which the penis of the male is inserted into the
716 vagina of the female.

717 (7) The court shall require, as part of the sentence, a
718 person convicted under this section to be placed under electronic
719 monitoring upon release from incarceration for a period of time
720 not less than fifty percent (50%) of the amount of time that such
721 person was incarcerated.

722 **SECTION 18.** Section 97-3-71, Mississippi Code of 1972, is
723 amended as follows:

724 97-3-71. Every person who shall be convicted of an assault
725 with intent to forcibly ravish any female of previous chaste
726 character shall be punished by imprisonment in the Penitentiary
727 for life, or for such shorter time as may be fixed by the jury, or
728 by the court upon the entry of a plea of guilty and such person
729 shall be sentenced to a minimum of ten (10) years of electronic
730 monitoring upon release from incarceration.

731 **SECTION 19.** Section 97-3-101, Mississippi Code of 1972, is
732 amended as follows:

733 97-3-101. (1) Every person who shall be convicted of sexual
734 battery under Section 97-3-95(1)(a), (b), or (2) shall be
735 imprisoned in the State Penitentiary for a period of not more than
736 thirty (30) years, and for a second or subsequent such offense
737 shall be imprisoned in the Penitentiary for not more than forty
738 (40) years.

739 (2) (a) Every person who shall be convicted of sexual
740 battery under Section 97-3-95(1)(c) who is at least eighteen (18)
741 but under twenty-one (21) years of age shall be imprisoned for not
742 more than five (5) years in the State Penitentiary or fined not
743 more than Five Thousand Dollars (\$5,000.00), or both;

744 (b) Every person who shall be convicted of sexual
745 battery under Section 97-3-95(1)(c) who is twenty-one (21) years
746 of age or older shall be imprisoned not more than thirty (30)
747 years in the State Penitentiary or fined not more than Ten
748 Thousand Dollars (\$10,000.00), or both, for the first offense, and
749 not more than forty (40) years in the State Penitentiary for each
750 subsequent offense.

751 (3) Every person who shall be convicted of sexual battery
752 under Section 97-3-95(1)(d) who is eighteen (18) years of age or
753 older shall be imprisoned for life in the State Penitentiary or
754 such lesser term of imprisonment as the court may determine, but
755 not less than twenty (20) years.

756 (4) Every person who shall be convicted of sexual battery
757 who is thirteen (13) years of age or older but under eighteen (18)
758 years of age shall be sentenced to such imprisonment, fine or
759 other sentence as the court, in its discretion, may determine.

760 (5) The court shall require, as part of the sentence, a
761 person convicted under this section to be placed under electronic
762 monitoring upon release from incarceration for a period of time
763 not less than fifty percent (50%) of the amount of time that such
764 person was incarcerated.

765 **SECTION 20.** Section 97-5-27, Mississippi Code of 1972, is
766 amended as follows:

767 97-5-27. (1) Any person who intentionally and knowingly
768 disseminates sexually oriented material to any person under
769 eighteen (18) years of age shall be guilty of a misdemeanor and
770 upon conviction shall be fined for each offense not less than Five
771 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
772 (\$5,000.00) or be imprisoned for not more than one (1) year in the
773 county jail, or be punished by both such fine and imprisonment. A
774 person disseminates sexually oriented material within the meaning
775 of this section if he:

776 (a) Sells, delivers or provides, or offers or agrees to
777 sell, deliver or provide, any sexually oriented writing, picture,
778 record or other representation or embodiment that is sexually
779 oriented; or

780 (b) Presents or directs a sexually oriented play, dance
781 or other performance or participates directly in that portion
782 thereof which makes it sexually oriented; or

783 (c) Exhibits, presents, rents, sells, delivers or
784 provides, or offers or agrees to exhibit, present, rent or to
785 provide any sexually oriented still or motion picture, film,
786 filmstrip or projection slide, or sound recording, sound tape or
787 sound track or any matter or material of whatever form which is a
788 representation, embodiment, performance or publication that is
789 sexually oriented.

790 (2) For purposes of this section, any material is sexually
791 oriented if the material contains representations or descriptions,
792 actual or simulated, of masturbation, sodomy, excretory functions,
793 lewd exhibition of the genitals or female breasts, sadomasochistic
794 abuse (for the purpose of sexual stimulation or gratification),
795 homosexuality, lesbianism, bestiality, sexual intercourse, or
796 physical contact with a person's clothed or unclothed genitals,

797 pubic area, buttocks, or the breast or breasts of a female for the
798 purpose of sexual stimulation, gratification or perversion.

799 (3) (a) A person is guilty of computer luring when:

800 (i) Knowing the character and content of any
801 communication of sexually oriented material, he intentionally uses
802 any computer communication system allowing the input, output,
803 examination or transfer of computer data or computer programs from
804 one computer to another, to initiate or engage in such
805 communication with a person under the age of eighteen (18); and

806 (ii) By means of such communication he importunes,
807 invites or induces a person under the age of eighteen (18) years
808 to engage in sexual intercourse, deviant sexual intercourse or
809 sexual contact with him, or to engage in a sexual performance,
810 obscene sexual performance or sexual conduct for his benefit.

811 (b) A person who engages in the conduct proscribed by
812 this subsection (3) is presumed to do so with knowledge of the
813 character and content of the material.

814 (c) In any prosecution for computer luring, it shall be
815 a defense that:

816 (i) The defendant made a reasonable effort to
817 ascertain the true age of the minor and was unable to do so as a
818 result of actions taken by the minor; or

819 (ii) The defendant has taken, in good faith,
820 reasonable, effective and appropriate actions under the
821 circumstances to restrict or prevent access by minors to the
822 materials prohibited, which may involve any appropriate measures
823 to restrict minors from access to such communications, including
824 any method which is feasible under available technology; or

825 (iii) The defendant has restricted access to such
826 materials by requiring use of a verified credit card, debit
827 account, adult access code or adult personal identification
828 number; or

829 (iv) The defendant has in good faith established a
830 mechanism such that the labeling, segregation or other mechanism
831 enables such material to be automatically blocked or screened by
832 software or other capabilities reasonably available to responsible
833 adults wishing to effect such blocking or screening and the
834 defendant has not otherwise solicited minors not subject to such
835 screening or blocking capabilities to access that material or to
836 circumvent any such screening or blocking.

837 (d) In any prosecution for computer luring:

838 (i) No person shall be held to have violated this
839 subsection (3) solely for providing access or connection to or
840 from a facility, system, or network not under that person's
841 control, including transmission, downloading, intermediate
842 storage, access software or other related capabilities that are
843 incidental to providing such access or connection that do not
844 include the creation of the content of the communication.

845 (ii) No employer shall be held liable for the
846 actions of an employee or agent unless the employee's or agent's
847 conduct is within the scope of his employment or agency or the
848 employer, having knowledge of such conduct, authorizes or ratifies
849 such conduct, or recklessly disregards such conduct.

850 (iii) The limitations provided by this paragraph
851 (d) shall not be applicable to a person who is a conspirator with
852 an entity actively involved in the creation or knowing
853 distribution of communications that violate such provisions, or
854 who knowingly advertises the availability of such communications,
855 nor to a person who provides access or connection to a facility,
856 system or network engaged in the violation of such provisions that
857 is owned or controlled by such person.

858 (e) Computer luring is a felony, and any person
859 convicted thereof shall be punished by commitment to the custody
860 of the Department of Corrections for a term not to exceed three

861 (3) years and by a fine not to exceed Ten Thousand Dollars
862 (\$10,000.00).

863 (4) The court shall require, as part of the sentence, a
864 person convicted under this section to be placed under electronic
865 monitoring upon release from incarceration for a period of time
866 not less than fifty percent (50%) of the amount of time that such
867 person was incarcerated.

868 **SECTION 21.** Section 97-5-35, Mississippi Code of 1972, is
869 amended as follows:

870 97-5-35. Any person who violates any provision of Section
871 97-5-33 shall be guilty of a felony and upon conviction shall be
872 fined not less than Fifty Thousand Dollars (\$50,000.00) nor more
873 than Five Hundred Thousand Dollars (\$500,000.00) and shall be
874 imprisoned for not less than five (5) years nor more than forty
875 (40) years. Any person convicted of a second or subsequent
876 violation of Section 97-5-33 shall be fined not less than One
877 Hundred Thousand Dollars (\$100,000.00) nor more than One Million
878 Dollars (\$1,000,000.00) and shall be confined in the custody of
879 the Department of Corrections for life or such lesser term as the
880 court may determine, but not less than twenty (20) years.

881 The court shall require, as part of the sentence, a person
882 convicted under this section to be placed under electronic
883 monitoring upon release from incarceration for a period of time
884 not less than fifty percent (50%) of the amount of time that such
885 person was incarcerated.

886 **SECTION 22.** Section 97-5-41, Mississippi Code of 1972, is
887 amended as follows:

888 97-5-41. (1) Any person who shall have carnal knowledge of
889 his or her unmarried stepchild or adopted child younger than
890 himself or herself and over fourteen (14) and under eighteen (18)
891 years of age, upon conviction, shall be punished by imprisonment
892 in the Penitentiary for a term not exceeding ten (10) years.

893 (2) Any person who shall have carnal knowledge of an
894 unmarried child younger than himself or herself and over fourteen
895 (14) and under eighteen (18) years of age, with whose parent he or
896 she is cohabiting or living together as husband and wife, upon
897 conviction, shall be punished by imprisonment in the Penitentiary
898 for a term not exceeding ten (10) years.

899 (3) The court shall require, as part of the sentence, a
900 person convicted under this section to be placed under electronic
901 monitoring upon release from incarceration for a period of time
902 not less than fifty percent (50%) of the amount of time that such
903 person was incarcerated.

904 **SECTION 23.** Section 97-29-3, Mississippi Code of 1972, is
905 amended as follows:

906 97-29-3. If any teacher and any pupil under eighteen (18)
907 years of age of such teacher, not being married to each other,
908 shall have sexual intercourse, each with the other, they shall,
909 for every such offense, be fined in any sum, not more than Five
910 Hundred Dollars (\$500.00) each, and the teacher may be imprisoned
911 not less than three (3) months nor more than six (6) months and
912 subject to electronic monitoring for an equivalent amount of time
913 upon release from incarceration.

914 **SECTION 24.** Section 97-29-59, Mississippi Code of 1972, is
915 amended as follows:

916 97-29-59. Every person who shall be convicted of the
917 detestable and abominable crime against nature committed with
918 mankind or with a beast, shall be punished by imprisonment in the
919 Penitentiary for a term of not more than ten (10) years.

920 The court shall require, as part of the sentence, a person
921 convicted under this section to be placed under electronic
922 monitoring upon release from incarceration for a period of time
923 not less than fifty percent (50%) of the amount of time that such
924 person was incarcerated.

925 **SECTION 25.** The following shall be codified as Section
926 99-19-84, Mississippi Code of 1972:

927 99-19-84. Whenever punishment by imprisonment for a
928 misdemeanor or a felony, except for a capital felony, is
929 prescribed for an offense for which registration as a sex offender
930 is required under Title 45, Chapter 33, the court, shall require
931 the defendant to be placed on electronic monitoring following
932 release from incarceration for any term of years or for life.

933 **SECTION 26.** Section 99-19-101, Mississippi Code of 1972, is
934 amended as follows:

935 99-19-101. (1) Upon conviction or adjudication of guilt of
936 a defendant of capital murder or other capital offense, the court
937 shall conduct a separate sentencing proceeding to determine
938 whether the defendant should be sentenced to death, life
939 imprisonment without eligibility for parole, or life imprisonment.
940 The proceeding shall be conducted by the trial judge before the
941 trial jury as soon as practicable. If, through impossibility or
942 inability, the trial jury is unable to reconvene for a hearing on
943 the issue of penalty, having determined the guilt of the accused,
944 the trial judge may summon a jury to determine the issue of the
945 imposition of the penalty. If the trial jury has been waived, or
946 if the defendant pleaded guilty, the sentencing proceeding shall
947 be conducted before a jury impaneled for that purpose or may be
948 conducted before the trial judge sitting without a jury if both
949 the State of Mississippi and the defendant agree thereto in
950 writing. In the proceeding, evidence may be presented as to any
951 matter that the court deems relevant to sentence, and shall
952 include matters relating to any of the aggravating or mitigating
953 circumstances. However, this subsection shall not be construed to
954 authorize the introduction of any evidence secured in violation of
955 the Constitutions of the United States or of the State of
956 Mississippi. The state and the defendant and/or his counsel shall

957 be permitted to present arguments for or against the sentence of
958 death.

959 (2) After hearing all the evidence, the jury shall
960 deliberate on the following matters:

961 (a) Whether sufficient factors exist as enumerated in
962 subsection (7) of this section;

963 (b) Whether sufficient aggravating circumstances exist
964 as enumerated in subsection (5) of this section;

965 (c) Whether sufficient mitigating circumstances exist
966 as enumerated in subsection (6) of this section, which outweigh
967 the aggravating circumstances found to exist; and

968 (d) Based on these considerations, whether the
969 defendant should be sentenced to life imprisonment, life
970 imprisonment without eligibility for parole, or death.

971 (3) For the jury to impose a sentence of death, it must
972 unanimously find in writing the following:

973 (a) That sufficient factors exist as enumerated in
974 subsection (7) of this section;

975 (b) That sufficient aggravating circumstances exist as
976 enumerated in subsection (5) of this section; and

977 (c) That there are insufficient mitigating
978 circumstances, as enumerated in subsection (6), to outweigh the
979 aggravating circumstances.

980 In each case in which the jury imposes the death sentence,
981 the determination of the jury shall be supported by specific
982 written findings of fact based upon the circumstances in
983 subsections (5) and (6) of this section and upon the records of
984 the trial and the sentencing proceedings. If, after the trial of
985 the penalty phase, the jury does not make the findings requiring
986 the death sentence or life imprisonment without eligibility for
987 parole, or is unable to reach a decision, the court shall impose a
988 sentence of life imprisonment.

989 (4) The judgment of conviction and sentence of death shall
990 be subject to automatic review by the Supreme Court of Mississippi
991 within sixty (60) days after certification by the sentencing court
992 of entire record, unless the time is extended for an additional
993 period by the Supreme Court for good cause shown. Such review by
994 the Supreme Court shall have priority over all other cases and
995 shall be heard in accordance with rules promulgated by the Supreme
996 Court.

997 (5) Aggravating circumstances shall be limited to the
998 following:

999 (a) The capital offense was committed by a person under
1000 sentence of imprisonment.

1001 (b) The defendant was previously convicted of another
1002 capital offense or of a felony involving the use or threat of
1003 violence to the person.

1004 (c) The defendant knowingly created a great risk of
1005 death to many persons.

1006 (d) The capital offense was committed while the
1007 defendant was engaged, or was an accomplice, in the commission of,
1008 or an attempt to commit, or flight after committing or attempting
1009 to commit, any robbery, rape, arson, burglary, kidnapping,
1010 aircraft piracy, sexual battery, unnatural intercourse with any
1011 child under the age of twelve (12), or nonconsensual unnatural
1012 intercourse with mankind, or felonious abuse and/or battery of a
1013 child in violation of subsection (2) of Section 97-5-39,
1014 Mississippi Code of 1972, or the unlawful use or detonation of a
1015 bomb or explosive device.

1016 (e) The capital offense was committed for the purpose
1017 of avoiding or preventing a lawful arrest or effecting an escape
1018 from custody.

1019 (f) The capital offense was committed for pecuniary
1020 gain.

1021 (g) The capital offense was committed to disrupt or
1022 hinder the lawful exercise of any governmental function or the
1023 enforcement of laws.

1024 (h) The capital offense was especially heinous,
1025 atrocious or cruel.

1026 (i) The capital offense was committed by a person
1027 previously convicted of one or more of the following offenses:

1028 (i) Section 97-3-65 relating to rape;

1029 (ii) Section 97-3-71 relating to rape and assault
1030 with intent to ravish;

1031 (iii) Section 97-3-95 relating to sexual battery;

1032 (iv) Subsection (1) or (2) of Section 97-5-33
1033 relating to the exploitation of children;

1034 (v) Section 97-5-41 relating to the carnal
1035 knowledge of a stepchild, adopted child or child of a cohabiting
1036 partner; or

1037 (vi) Any conviction for violation of a similar law
1038 of another jurisdiction or designation as a sexual predator in
1039 another jurisdiction.

1040 (6) Mitigating circumstances shall be the following:

1041 (a) The defendant has no significant history of prior
1042 criminal activity.

1043 (b) The offense was committed while the defendant was
1044 under the influence of extreme mental or emotional disturbance.

1045 (c) The victim was a participant in the defendant's
1046 conduct or consented to the act.

1047 (d) The defendant was an accomplice in the capital
1048 offense committed by another person and his participation was
1049 relatively minor.

1050 (e) The defendant acted under extreme duress or under
1051 the substantial domination of another person.

1052 (f) The capacity of the defendant to appreciate the
1053 criminality of his conduct or to conform his conduct to the
1054 requirements of law was substantially impaired.

1055 (g) The age of the defendant at the time of the crime.

1056 (7) In order to return and impose a sentence of death the
1057 jury must make a written finding of one or more of the following:

1058 (a) The defendant actually killed;

1059 (b) The defendant attempted to kill;

1060 (c) The defendant intended that a killing take place;

1061 (d) The defendant contemplated that lethal force would
1062 be employed.

1063 **SECTION 27.** The following shall be codified as Section
1064 99-19-205, Mississippi Code of 1972:

1065 99-19-205. Any person who is convicted of a sex offense on
1066 or after July 1, 2006, and who is sentenced to any state or local
1067 correctional facility, placed on probation, given a suspended
1068 sentence or other disposition, and the unlawful activity involved
1069 a victim who was under sixteen (16) years of age and the offender
1070 was eighteen (18) years of age or older, or the offender is
1071 subject to lifetime registration under Section 45-33-47(2), shall
1072 be sentenced by the court to mandatory electronic monitoring for
1073 life subsequent to the offender's release from incarceration.

1074 **SECTION 28.** (1) The Department of Public Safety shall
1075 examine the collection and dissemination of offender information
1076 within the criminal justice system and community and recommend
1077 strategies and actions that may be implemented to enhance
1078 coordination and cooperation among the various entities within the
1079 criminal justice system with a common goal of public safety. The
1080 department shall study:

1081 (a) The collection and dissemination of offender
1082 information, including criminal history and any other pertinent
1083 matters, to the court, the prosecuting attorney and defense
1084 counsel at first appearance hearings.

1085 (b) The collection and dissemination of offender
1086 information, including criminal history and any other pertinent
1087 matters, to the court, the prosecuting attorney and defense
1088 counsel at all court appearances subsequent to first appearance.

1089 (c) The collection and dissemination of offender
1090 information, including criminal history and any other pertinent
1091 matters, to county probation officers or officials.

1092 (d) Any other subject that the department deems
1093 relevant to the collection and dissemination of offender
1094 information within the criminal justice system and community.

1095 (2) The department shall submit its findings and
1096 recommendations to the Governor, the President of the Senate, and
1097 the Speaker of the House of Representatives by November 1, 2007.
1098 The final report shall be filed with the Governor, the President
1099 of the Senate, and the Speaker of the House of Representatives.
1100 In addition to the findings and recommendations included in the
1101 final report, the report must include a draft of proposed rules
1102 and proposed legislation for any recommendations requiring
1103 proposed rules and proposed legislation.

1104 (3) Each state agency shall fully cooperate with the task
1105 force in the performance of its duties.

1106 **SECTION 29.** The Joint Committee on Performance Evaluation
1107 and Expenditure Review, every three (3) years, shall perform a
1108 study of the effectiveness of Mississippi's sex offender
1109 registration process and community and public notification
1110 provisions. As part of determining the effectiveness of the
1111 registration process, PEER shall examine the current practices of:
1112 the Department of Corrections, county probation offices, clerk of
1113 courts, court administrators, county jails and booking facilities,
1114 Department of Children and Family Services, judges, district
1115 attorneys' offices, Department of Public Safety, and local law
1116 enforcement agencies as they relate to: sharing of offender
1117 information regarding registered sex offenders for purposes of

1118 fulfilling the requirements set forth in the registration laws;
1119 ensuring the most accurate, current and comprehensive information
1120 is provided in a timely manner to the registry; ensuring the
1121 effective supervision and subsequent monitoring of sex offenders;
1122 and ensuring informed decisions are made at each point of the
1123 criminal justice and registration process. In addition to
1124 determining the effectiveness of the registration process, the
1125 report shall focus on the question of whether the notification
1126 provisions in statute are sufficient to apprise communities of the
1127 presence of sex offenders. The report shall examine how local law
1128 enforcement agencies collect and disseminate information in an
1129 effort to notify the public and communities of the presence of sex
1130 offenders. If the report finds deficiencies in the registration
1131 process, the notification provisions, or both, the report shall
1132 provide options for correcting those deficiencies and shall
1133 include the projected cost of implementing those options. In
1134 conducting the study, PEER shall consult with interested entities
1135 that may offer experiences and perspectives unique to this area of
1136 research. The report shall be submitted to the President of the
1137 Senate and the Speaker of the House of Representatives.

1138 **SECTION 30.** This act shall take effect and be in force from
1139 and after July 1, 2006.