

By: Senator(s) Albritton, Tollison

To: Judiciary, Division B

SENATE BILL NO. 2820

1 AN ACT TO AMEND SECTIONS 45-33-23, 45-33-25, 45-33-27,  
 2 45-33-29, 45-33-31 AND 45-33-33, MISSISSIPPI CODE OF 1972, TO  
 3 REVISE THE SEX OFFENDER REGISTRATION LAW BY MAKING CLARIFYING  
 4 TECHNICAL CORRECTIONS; TO CREATE NEW SECTION 45-33-34, MISSISSIPPI  
 5 CODE OF 1972, TO PROVIDE FOR NOTIFICATION TO THE DEPARTMENT OF  
 6 PUBLIC SAFETY OF THE REINCARCERATION OR COMMITMENT OF A REGISTERED  
 7 SEX OFFENDER; TO AMEND SECTION 45-33-35, MISSISSIPPI CODE OF 1972,  
 8 TO MAKE CLARIFYING TECHNICAL AMENDMENTS; TO AMEND SECTION  
 9 45-33-37, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PARTICIPATION  
 10 IN THE FEDERAL DNA INDEXING SYSTEM AND TO PROVIDE A "GOOD FAITH"  
 11 CLAUSE FOR DNA INFORMATION; TO REQUIRE THE STATE TAX COMMISSION TO  
 12 COLLECT SUFFICIENT INFORMATION TO DETERMINE FAILURE TO REGISTER AS  
 13 A SEX OFFENDER BY THOSE PERSONS REQUIRED TO SO REGISTER AND TO  
 14 SUSPEND THE VEHICLE REGISTRATION OF ANY SEX OFFENDER WHO FAILS TO  
 15 REGISTER AS A SEX OFFENDER WHEN REQUIRED BY LAW TO DO SO; AND FOR  
 16 RELATED PURPOSES.

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

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

20 45-33-23. For the purposes of this chapter, the following  
 21 words shall have the meanings ascribed herein unless the context  
 22 clearly requires otherwise:

23 (a) "Conviction" shall mean that, regarding the  
 24 person's offense, there has been a determination or judgment of  
 25 guilt as a result of a trial or the entry of a plea of guilty or  
 26 nolo contendere regardless of whether adjudication is withheld.  
 27 "Conviction of similar offenses" includes, but is not limited to,  
 28 a conviction by a federal or military tribunal, including a court  
 29 martial conducted by the Armed Forces of the United States, a  
 30 conviction for an offense committed on an Indian Reservation or  
 31 other federal property, and a conviction in any state of the  
 32 United States.

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

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

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

41           (e) "Registration duties" means obtaining the  
42 registration information required on the form specified by the  
43 department as well as the photograph, fingerprints, and biological  
44 sample of the registrant. Biological samples are to be forwarded  
45 to the State Crime Laboratory pursuant to Section 45-33-37; the  
46 photograph, fingerprints and other registration information are to  
47 be forwarded to the Department of Public Safety within ten (10)  
48 days of registration.

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

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

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

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

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

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

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

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

78                   (g) "Sex offense" means any of the following offenses:

79                   (i) Section 97-3-53 relating to kidnapping, if the  
80 victim was below the age of sixteen (16);

81                   (ii) Section 97-3-65 relating to rape; however,  
82 conviction or adjudication under Section 97-3-65(1)(a) on or after  
83 July 1, 1998, when the offender was eighteen (18) years of age or  
84 younger at the time of the alleged offense, shall not be a  
85 registrable sex offense;

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

88                   (iv) Section 97-3-95 relating to sexual battery;  
89 however, conviction or adjudication under Section 97-3-95(1)(c) on  
90 or after July 1, 1998, when the offender was eighteen (18) years  
91 of age or younger at the time of the alleged offense, shall not be  
92 a registrable sex offense;

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

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

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

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

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

105                   (x) Section 97-29-59 relating to unnatural  
106 intercourse;

107                   (xi) Section 97-1-7 relating to attempt to commit  
108 any of the above-referenced offenses;

109                   (xii) Section 97-29-3 relating to adultery or  
110 fornication between teacher and pupil;

111                   (xiii) Any other offense resulting in a conviction  
112 in another jurisdiction, whether state, federal or military,  
113 which, if committed in this state, would be deemed to be such a  
114 crime without regard to its designation elsewhere;

115                   (xiv) Any offense resulting in a conviction in  
116 another jurisdiction, whether state, federal or military, for  
117 which registration is required in the jurisdiction where the  
118 conviction was had.

119                   (h) "Temporary residence" is defined as a place where  
120 the person abides, lodges, or resides for a period of fourteen  
121 (14) or more days in the aggregate during any calendar year and  
122 which is not the person's permanent address; for a person whose  
123 permanent residence is not in this state, the place where the  
124 person is employed, practices a vocation, or is enrolled as a  
125 student for any period of time in the state; or a place where a  
126 person routinely abides, lodges or resides for a period of four  
127 (4) or more consecutive or nonconsecutive days in any month and  
128 which is not the person's permanent residence.

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

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

133           45-33-25. (1) Any person residing in this state who has  
134 been convicted of any sex offense or attempted sex offense or who  
135 has been acquitted by reason of insanity for any sex offense or  
136 attempted sex offense or twice adjudicated delinquent for any sex  
137 offense or attempted sex offense shall register with the  
138 Mississippi Department of Public Safety. Registration shall not  
139 be required for an offense that is not a registrable sex offense.  
140 The department shall provide the initial registration information  
141 as well as every change of address to the sheriff of the county of  
142 the residence address of the registrant through either written  
143 notice, electronic or telephone transmissions, or online access to  
144 registration information. Further, the department shall provide  
145 this information to the Federal Bureau of Investigation.  
146 Additionally, upon notification by the registrant that he intends  
147 to reside outside the State of Mississippi, the department shall  
148 notify the appropriate state law enforcement agency of any state  
149 to which a registrant is moving or has moved.

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

152                   (a) Name, including a former name which has been  
153 legally changed;

154                   (b) Street address;

155                   (c) Place of employment;

156                   (d) Crime for which convicted;

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

159                   (f) Aliases used;

160                   (g) Social security number;

161                   (h) Date and place of birth;

162                   (i) Age, race, sex, height, weight, and hair and eye  
163 colors;

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

- 166 (k) Identifying factors;
- 167 (l) Anticipated future residence;
- 168 (m) Offense history;
- 169 (n) Photograph;
- 170 (o) Fingerprints;
- 171 (p) Documentation of any treatment received for any
- 172 mental abnormality or personality disorder of the person;
- 173 (q) Biological sample;
- 174 (r) Name of any public or private educational
- 175 institution, including any secondary school, trade or professional
- 176 institution or institution of higher education at which the
- 177 offender is employed, carries on a vocation (with or without
- 178 compensation) or is enrolled as a student; \* \* \*
- 179 (s) Copy of conviction or sentencing order for the sex
- 180 offense for which registration is required; and
- 181 (t) Any other information deemed necessary.

182 (3) For purposes of this chapter, a person is considered to

183 be residing in this state if he maintains a permanent or temporary

184 residence as defined in Section 45-33-23, including students,

185 temporary employees and military personnel on assignment.

186 **SECTION 3.** Section 45-33-27, Mississippi Code of 1972, is

187 amended as follows:

188 45-33-27. (1) A person required to register on the basis of

189 a conviction, adjudication of delinquency or acquittal by reason

190 of insanity entered shall register with the responsible agency

191 within three (3) days of the date of judgment unless the person is

192 immediately confined or committed, in which case the person shall

193 register when released in accordance with the procedures

194 established by the department. The person is also required to

195 personally appear at a Department of Public Safety Driver's

196 License Station within ten (10) days of registration with the

197 responsible agency.

198           (2) If a person who is required to register under this  
199 section is released from prison or placed on parole or supervised  
200 release, the Department of Corrections shall perform the  
201 registration duties at the time of release and forward the  
202 registration information to the Department of Public Safety within  
203 ten (10) days. The person is also required to personally appear  
204 at a Department of Public Safety Driver's License Station within  
205 ten (10) days of release.

206           (3) If a person required to register under this section is  
207 placed on probation, the court, at the time of entering the order,  
208 shall inform the person of the duty to register, obtain the  
209 registration information and forward the registration information  
210 to the Department of Public Safety within ten (10) days. The  
211 person is also required to personally appear at a Department of  
212 Public Safety Driver's License Station within ten (10) days of the  
213 entry of the order.

214           (4) Any person required to register who is neither  
215 incarcerated, detained nor committed at the time the requirement  
216 to register shall attach shall present himself to the county  
217 sheriff who shall perform the registration duties and forward the  
218 registration information to the Department of Public Safety within  
219 ten (10) days. The person is also required to personally appear  
220 at a Department of Public Safety Driver's License Station within  
221 ten (10) days of the time the requirement to register attaches.

222           (5) An offender moving to or returning to this state from  
223 another jurisdiction shall notify the Department of Public Safety  
224 ten (10) days before the person first resides in or returns to a  
225 county in this state and shall register with the department within  
226 ten (10) days of first residing in or returning to a county of  
227 this state. The offender must then present himself to the sheriff  
228 of the county in which he intends to reside to provide the  
229 required registration information. The person is also required to  
230 personally appear at a Department of Public Safety Driver's

231 License Station within ten (10) days of first residing in or  
232 moving to a county of this state.

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

240 (7) Every person required to register shall show proof of  
241 domicile in this state. The commissioner shall promulgate any  
242 rules and regulations necessary to enforce this requirement and  
243 shall prescribe the means by which such person may show domicile  
244 in this state.

245 (8) Any driver's license photograph, I.D. photograph, sex  
246 offender photograph, finger print, driver's license application  
247 and/or anything submitted to the Department of Public Safety by a  
248 known convicted sex offender, registered or not registered, can be  
249 used by the Department of Public Safety or any other authorized  
250 law enforcement agency for any means necessary in registration,  
251 identification, investigation regarding their tracking or  
252 identification.

253 **SECTION 4.** Section 45-33-29, Mississippi Code of 1972, is  
254 amended as follows:

255 45-33-29. (1) Upon any change of address, an offender  
256 required to register under this chapter is required to personally  
257 appear at a Department of Public Safety Driver's License Station  
258 not less than ten (10) days before he intends to first reside at  
259 the new address.

260 (2) Upon any change in the status of a registrant's  
261 employment or vocation at any public or private educational  
262 institution, including any secondary school, trade or professional  
263 institution or institution of higher education, the offender is



264 required to personally appear at a Department of Public Safety  
265 Driver's License Station within ten (10) days of the change.

266 **SECTION 5.** Section 45-33-31, Mississippi Code of 1972, is  
267 amended as follows:

268 45-33-31. All registrants are required to personally appear  
269 at a Department of Public Safety Driver's License Station to  
270 reregister every ninety (90) days. Reregistration includes the  
271 submission of current information to the department and the  
272 verification of registration information, including the street  
273 address and telephone number of the registrant; name, \* \* \* street  
274 address and telephone number of the registrant's employment along  
275 with any other registration information that may need to be  
276 verified and the payment of any required fees. A person who fails  
277 to reregister as required by this section commits a violation of  
278 this chapter.

279 **SECTION 6.** Section 45-33-33, Mississippi Code of 1972, is  
280 amended as follows:

281 45-33-33. (1) The failure of an offender to personally  
282 appear at a Department of Public Safety Driver's License Station  
283 or to provide any registration or other information, including,  
284 but not limited to, initial registration, reregistration or change  
285 of address information, or required notification to a volunteer  
286 organization, as required by this chapter, is a violation of the  
287 law. Additionally, forgery of information or submission of  
288 information under false pretenses is also a violation of the law.

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

294 (3) Whenever it appears that an offender has failed to  
295 comply with the duty to register or reregister, the department  
296 shall promptly notify the sheriff of the county of the last known

297 address of the offender. Upon notification, the sheriff shall  
298 attempt to locate the offender at his last known address.

299 (a) If the sheriff locates the offender, he shall  
300 enforce the provisions of this chapter. The sheriff shall then  
301 notify the department with the current information regarding the  
302 offender.

303 (b) If the sheriff is unable to locate the offender,  
304 the sheriff shall promptly notify the department and initiate a  
305 criminal prosecution against the offender for the failure to  
306 register or reregister. The sheriff shall make the appropriate  
307 transactions into the Federal Bureau of Investigation's  
308 wanted-person database.

309 (4) A first violation of this chapter may result in the  
310 arrest of the offender. Upon any second or subsequent violation  
311 of this chapter, the offender shall be arrested for such  
312 violation.

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

315 (6) The Commissioner of Public Safety or his authorized  
316 agent shall suspend the driver's license or driving privilege of  
317 any offender failing to comply with the duty to report, register  
318 or reregister.

319 **SECTION 7.** The following shall be codified as Section  
320 45-33-34, Mississippi Code of 1972:

321 45-33-34. (1) It shall be the responsibility of the county  
322 sheriff to notify the department when a registered sex offender is  
323 reincarcerated for another offense or as the result of having  
324 violated probation, parole, conditional discharge or other  
325 sentence or court order.

326 (2) It shall be the responsibility of the offender,  
327 offender's guardian, offender's attorney-in-fact or the  
328 administrator of the institution to notify the department when a  
329 registered sex offender is committed to a mental institution for a

330 reason other than the initial confinement following an acquittal  
331 by reason of insanity for a sex offense.

332 **SECTION 8.** Section 45-33-35, Mississippi Code of 1972, is  
333 amended as follows:

334 45-33-35. (1) The Mississippi Department of Public Safety  
335 shall maintain a central registry of sex offender information as  
336 defined in Section 45-33-25 and shall adopt rules and regulations  
337 necessary to carry out this section. The responsible agencies  
338 shall provide the information required in Section 45-33-25 on a  
339 form developed by the department to ensure accurate information is  
340 maintained.

341 (2) Upon conviction, adjudication or acquittal by reason of  
342 insanity of any sex offender, if the sex offender is not  
343 immediately confined or not sentenced to a term of imprisonment,  
344 the clerk of the court which convicted and sentenced the sex  
345 offender shall inform the person of the duty to register,  
346 including the duty to personally appear at a Department of Public  
347 Safety Driver's License Station, and shall perform the  
348 registration duties as described in Section 45-33-23 and forward  
349 the information to the department.

350 (3) Upon release from prison, placement on parole or  
351 supervised release, the Department of Corrections shall inform the  
352 person of the duty to register, including the duty to personally  
353 appear at a Department of Public Safety Driver's License Station,  
354 and shall perform the registration duties as described in Section  
355 45-33-23 and forward the information to the Department of Public  
356 Safety.

357 (4) Upon release from confinement in a mental institution  
358 following an acquittal by reason of insanity, the director of the  
359 facility shall inform the offender of the duty to register,  
360 including the duty to personally appear at a Department of Public  
361 Safety Driver's License Station, and shall notify the Department  
362 of Public Safety of the offender's release.

363 (5) Upon release from a youthful offender facility, the  
364 director of the facility shall inform the person of the duty to  
365 register, including the duty to personally appear at a Department  
366 of Public Safety Driver's License Station, and shall perform the  
367 registration duties as described in Section 45-33-23 and forward  
368 the information to the Department of Public Safety.

369 (6) In addition to performing the registration duties, the  
370 responsible agency shall:

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

372 (i) The person is required to personally appear at  
373 a Department of Public Safety Driver's License Station at least  
374 ten (10) days before changing address.

375 (ii) Any change of address to another state shall  
376 be reported to the department by personally appearing at a  
377 Department of Public Safety Driver's License Station not less than  
378 ten (10) days before the change of address. The offender shall  
379 comply with any registration requirement in the new state.

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

383 (iv) All address verifications must be returned to  
384 the department by personally appearing at a Department of Public  
385 Safety Driver's License Station within the required time period.

386 (v) Any verification of change in status of a  
387 registrant's enrollment, employment or vocation at any public or  
388 private educational institution, including any secondary school,  
389 trade or professional institution, or institution of higher  
390 education shall be reported to the department by personally  
391 appearing at a Department of Public Safety Driver's License  
392 Station within ten (10) days of the change.

393 (vi) If the person has been convicted of a sex  
394 offense, the person shall notify any organization for which the  
395 person volunteers in which volunteers have direct, private or

396 unsupervised contact with minors that the person has been  
397 convicted of a sex offense as provided in Section 45-33-32(1).

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

401 (c) Obtain or facilitate the obtaining of a biological  
402 sample from every registrant as required by this chapter if such  
403 biological sample has not already been provided to the Mississippi  
404 Crime Lab.

405 (d) Provide a copy of the order of conviction or  
406 sentencing order to the department at the time of registration.

407 **SECTION 9.** Section 45-33-37, Mississippi Code of 1972, is  
408 amended as follows:

409 45-33-37. (1) The Mississippi Crime Laboratory shall  
410 develop a plan for and establish a deoxyribonucleic acid (DNA)  
411 identification system. In implementing the plan, the Mississippi  
412 Crime Laboratory shall purchase the appropriate equipment. The  
413 DNA identification system as established herein shall be  
414 compatible with that utilized by the Federal Bureau of  
415 Investigation.

416 (2) From and after January 1, 1996, every individual  
417 convicted of a sex offense or in the custody of the Mississippi  
418 Department of Corrections for a sex offense as defined in Section  
419 45-33-23 shall submit a biological sample for purposes of DNA  
420 identification analysis before release from or transfer to a state  
421 correctional facility or county jail or other detention facility.

422 (3) From and after January 1, 1996, any person having a duty  
423 to register under Section 45-33-25 for whom a DNA analysis is not  
424 already on file shall submit a biological sample for purposes of  
425 DNA identification analysis within five (5) working days after  
426 registration.

427 (4) The Mississippi Crime Laboratory shall be responsible  
428 for the policy management and administration of the state DNA

429 identification record system to support law enforcement and other  
430 criminal justice agencies and shall:

431 (a) Promulgate rules and regulations to implement the  
432 provisions of this section; and

433 (b) Provide for cooperation with the Federal Bureau of  
434 Investigation and other criminal justice agencies relating to the  
435 state's participation in the CODIS program and the national DNA  
436 identification index or in any DNA database designated by the  
437 crime laboratory.

438 (5) A DNA sample obtained in good faith shall be deemed to  
439 have been obtained in accordance with the requirements of this  
440 section. Any entry into the database which is found to be  
441 erroneous shall not prohibit law enforcement officials from the  
442 legitimate use of information in the furtherance of a criminal  
443 investigation.

444 **SECTION 10.** (1) The State Tax Commission shall implement a  
445 motorist identification database program for the purpose of  
446 identifying the owners of vehicles in this state who are sex  
447 offenders. The commission shall contract with a private vendor to  
448 implement the program. Such vendor shall have experience in  
449 managing large-scale data management services for governmental  
450 entities. The commission, or its designated agent, shall convene  
451 a work group consisting of representatives of the sex offender  
452 registry, the Department of Insurance and the State Tax Commission  
453 to develop a plan for the program. The commission, or its  
454 designated agent, shall be responsible for requesting any  
455 appropriate information on a recurring basis necessary to compile  
456 and maintain the database.

457 (2) If a title holder who is so required fails to register  
458 within thirty (30) days from receipt of notice, a vehicle  
459 registration suspension notice shall be mailed to the vehicle  
460 registrant who shall have fifteen (15) business days from receipt  
461 of the notice to register as a sex offender. If the vehicle

462 registrant fails to respond within the required time period or if  
463 his response fails to show proof of sex offender registration as  
464 required by this section, his vehicle registration shall be  
465 suspended and a fee in the amount of Five Hundred Dollars  
466 (\$500.00) shall be charged to reinstate the registration. For any  
467 second and subsequent suspension pursuant to this subsection, a  
468 fee of One Thousand Dollars (\$1,000.00) shall be charged to  
469 reinstate the registration. The vehicle registrant whose  
470 registration has been suspended may make a written request, within  
471 ten (10) days after receipt of notice of the suspension, to the  
472 commission for a hearing and such request shall operate as a stay  
473 of any suspension pending the outcome of the hearing. The hearing  
474 officer shall review the merits of the suspension and make a  
475 determination on its status. Any person whose suspension has been  
476 sustained shall have the right to appeal in a court of proper  
477 jurisdiction. However, the suspension shall not be stayed by the  
478 commission or any court while the appeal is pending. No vehicle  
479 registration may be renewed or transferred while it is in a  
480 suspended condition. Reinstatement fees collected under this  
481 subsection shall be deposited into the State General Fund;  
482 provided, however, that five percent (5%) of the collected fees  
483 shall be deposited into a special fund hereby created and named  
484 the "Motorist Identification Database Fund" to be used by the  
485 State Tax Commission to administer this section, and five percent  
486 (5%) of the collected fees shall be evenly distributed to the  
487 counties of this state.

488       **SECTION 11.** This act shall take effect and be in force from  
489 and after July 1, 2006.