

By: Senator(s) Tollison

To: Judiciary, Division B

SENATE BILL NO. 2290

1 AN ACT TO AMEND SECTION 41-29-701, MISSISSIPPI CODE OF 1972,  
2 TO REVISE VENUE FOR APPLICATION TO THE CIRCUIT COURT FOR  
3 INSTALLATION OF A PEN REGISTER UNDER THE UNIFORM CONTROLLED  
4 SUBSTANCES ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-29-701, Mississippi Code of 1972, is  
7 amended as follows:

8 41-29-701. (1) As used in this section, the following words  
9 and phrases shall have the meanings ascribed to them herein unless  
10 the context clearly requires otherwise:

11 (a) "Pen register" means a mechanical or electronic  
12 device that attaches to a telephone line and is capable of  
13 recording outgoing numbers dialed from that line and date, time  
14 and duration of any incoming communication to that line.

15 (b) "Trap and trace device" means a device which  
16 captures the incoming electronic or other signals which identifies  
17 the originating number of an instrument or device from which a  
18 wire or other communication was transmitted.

19 (c) "Caller ID" means a service offered by a provider  
20 of communications services which identifies either or both of the  
21 originating number or the subscriber of such number of an  
22 instrument or device from which a wire or other communication was  
23 transmitted.

24 (2) (a) Attorneys for the Bureau of Narcotics, upon their  
25 own motion, may file an application with the circuit court \* \* \*  
26 for the installation and use of a pen register, trap and trace  
27 device or caller ID to obtain information material to an ongoing  
28 investigation of a felony violation of the Uniform Controlled

29 Substances Law. Venue under this section shall be in the circuit  
30 court district of any of the following: (i) the county of  
31 residence of the subscriber, (ii) the county of residence of the  
32 user, (iii) the county in which the billing address is located, or  
33 (iv) the county in which the crime is allegedly being committed.

34 (b) The application shall be made in writing under oath  
35 and shall include the name of the subscriber, the telephone number  
36 or numbers, and the location of the telephone instrument or  
37 instruments upon which the pen register will be utilized. The  
38 application shall also set forth facts which the court shall  
39 consider in determining that probable cause exists that the  
40 installation and utilization of the pen register, trap and trace  
41 device or caller ID will be material to an ongoing investigation  
42 of a felony violation of the Uniform Controlled Substances Law.

43 (c) Upon consideration of the application and a  
44 determination that probable cause exists, the circuit court judge  
45 may order the installation and utilization of the pen register,  
46 trap and trace device or caller ID, and in the order the circuit  
47 court judge shall direct a communications common carrier, as  
48 defined by 47 USCS 153(h), to furnish all information, facilities  
49 and technical assistance necessary to facilitate the installation  
50 and utilization of the pen register, trap and trace device or  
51 caller ID unobtrusively and with a minimum of interference to the  
52 services provided by the carrier. The carrier is entitled to  
53 compensation at the prevailing rates for the facilities and  
54 assistance provided to the Bureau of Narcotics.

55 (d) An order for the installation and utilization of a  
56 pen register, trap and trace device or caller ID is valid for not  
57 more than thirty (30) days from the date the order is granted  
58 unless, prior to the expiration of the order, an attorney for the  
59 Bureau of Narcotics applies for and obtains from the court an  
60 extension of the order. The period of extension may not exceed  
61 thirty (30) days for each extension granted.

62           (e) The circuit court shall seal an application and  
63 order for the installation and utilization of a pen register, trap  
64 and trace device or caller ID granted under this section. The  
65 contents of an application or order may not be disclosed except in  
66 the course of a judicial proceeding and an unauthorized disclosure  
67 is punishable as contempt of court.

68           (3) On or before January 5 of each year, the Director of the  
69 Bureau of Narcotics shall submit a report to the Mississippi  
70 Administrative Office of Courts detailing the number of  
71 applications for pen registers sought and the number of orders for  
72 the installation and utilization of pen registers, trap and trace  
73 devices or caller ID granted during the preceding calendar year.

74           **SECTION 2.** This act shall take effect and be in force from  
75 and after July 1, 2007.