

By: Representatives Horan, McLean

To: Judiciary B

HOUSE BILL NO. 1004
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 45-33-23 AND 45-33-25, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE DEFINITIONS FOR THE PROVISIONS OF LAW
3 THAT REGULATE SEX OFFENDER REGISTRY; TO DECLARE THAT THE RECORDS
4 AND PROCEEDINGS OF AN ORGAN PROCUREMENT ORGANIZATION PEER REVIEW
5 COMMITTEE ARE CONFIDENTIAL AND NOT DISCOVERABLE IN A CIVIL ACTION;
6 TO DEFINE CERTAIN TERMS; TO DESCRIBE THE FUNCTIONS OF PEER REVIEW
7 COMMITTEES; TO PROVIDE THAT PERSONS PROVIDING INFORMATION TO AND
8 MEMBERS OF A PEER REVIEW COMMITTEE MAY NOT BE HELD LIABLE FOR
9 ACTIONS TAKEN BY THE COMMITTEE; TO PROHIBIT A PEER REVIEW
10 COMMITTEE AND ITS MEMBERS FROM REVEALING THE IDENTITY OF ORGAN
11 DONORS AND RECIPIENTS; TO AMEND SECTION 47-7-47, MISSISSIPPI CODE
12 OF 1972, TO REVISE THE JURISDICTIONAL TIME PERIOD FOR A COURT'S
13 AUTHORITY TO REVISE A DEFENDANT'S SENTENCE; AND FOR RELATED
14 PURPOSES.

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

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

18 45-33-23. For the purposes of this chapter, the following
19 words shall have the meanings ascribed herein unless the context
20 clearly requires otherwise:

21 (a) "Conviction" means that, regarding the person's
22 offense, there has been a determination or judgment of guilt as a
23 result of a trial or the entry of a plea of guilty or nolo
24 contendere regardless of whether adjudication is withheld.



25 "Conviction of similar offenses" includes, but is not limited to,
26 a conviction by a federal or military tribunal, including a
27 court-martial conducted by the Armed Forces of the United States,
28 a conviction for an offense committed on an Indian Reservation or
29 other federal property, a conviction in any state of the United
30 States, the District of Columbia, the Commonwealth of Puerto Rico,
31 Guam, American Samoa, the Northern Marianna Islands or the United
32 States Virgin Islands, and a conviction in a foreign country if
33 the foreign country's judicial system is such that it satisfies
34 minimum due process set forth in the guidelines under Section
35 111(5) (B) Public Law 109-248.

36 (b) "Department" means the Mississippi Department of
37 Public Safety unless otherwise specified.

38 (c) "Jurisdiction" means any court or locality
39 including any state court, federal court, military court, Indian
40 tribunal or foreign court, the fifty (50) states, the District of
41 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,
42 the Northern Marianna Islands or the United States Virgin Islands,
43 and Indian tribes that elect to function as registration
44 jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh
45 Child Safety Act.

46 (d) "Permanent residence" means a place where the
47 person abides, lodges, or resides for a period of fourteen (14) or
48 more * * * aggregate days in a six (6) month period.



49 (e) "Registration" means providing information to the
50 appropriate agency within the timeframe specified as required by
51 this chapter.

52 (f) "Registration duties" means obtaining the
53 registration information required on the form specified by the
54 department as well as the photograph, fingerprints and biological
55 sample of the registrant. Biological samples are to be forwarded
56 to the Mississippi Forensics Laboratory pursuant to Section
57 45-33-37; the photograph, fingerprints and other registration
58 information are to be forwarded to the Department of Public Safety
59 immediately.

60 (g) "Responsible agency" is defined as the person or
61 government entity whose duty it is to obtain information from a
62 criminal sex offender upon conviction and to transmit that
63 information to the Mississippi Department of Public Safety.

64 (i) For a criminal sex offender being released
65 from the custody of the Department of Corrections, the responsible
66 agency is the Department of Corrections.

67 (ii) For a criminal sex offender being released
68 from a county jail, the responsible agency is the sheriff of that
69 county.

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



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

75 (v) For a criminal sex offender who is being
76 placed on probation, including conditional discharge or
77 unconditional discharge, without any sentence of incarceration,
78 the responsible agency is the sentencing court.

79 (vi) For an offender who has been committed to a
80 mental institution following an acquittal by reason of insanity,
81 the responsible agency is the facility from which the offender is
82 released. Specifically, the director of the facility shall notify
83 the Department of Public Safety before the offender's release.

84 (vii) For a criminal sex offender who is being
85 released from a jurisdiction outside this state or who has a prior
86 conviction in another jurisdiction and who is to reside, work or
87 attend school in this state, the responsible agency is both the
88 sheriff of the proposed county of residence and the department.

89 (h) "Sex offense" or "registrable offense" means any of
90 the following offenses:

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

93 (ii) Section 97-3-65 relating to rape; however,
94 conviction or adjudication under Section 97-3-65(1)(a) when the
95 offender was eighteen (18) years of age or younger at the time of
96 the alleged offense, shall not be a registrable sex offense;



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

99 (iv) Section 97-3-95 relating to sexual battery;
100 however, conviction or adjudication under Section 97-3-95(1)(c)
101 when the offender was eighteen (18) years of age or younger at the
102 time of the alleged offense, shall not be a registrable sex
103 offense;

104 (v) Section 97-5-5 relating to enticing a child
105 for concealment, prostitution or marriage;

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

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

111 (viii) Section 97-5-33 relating to the
112 exploitation of children;

113 (ix) Section 97-5-41 relating to the carnal
114 knowledge of a stepchild, adopted child or child of a cohabiting
115 partner;

116 (x) Section 97-29-3 relating to sexual intercourse
117 between teacher and student;

118 (xi) Section 97-29-59 relating to unnatural
119 intercourse;

120 (xii) Section 43-47-18 relating to sexual abuse of
121 a vulnerable person;



122 (xiii) Section 97-3-54.1(1)(c) relating to
123 procuring sexual servitude of a minor and Section 97-3-54.3
124 relating to aiding, abetting or conspiring to violate Section
125 97-3-54.1(1)(c);

126 (xiv) Section 97-29-61(2) relating to voyeurism
127 when the victim is a child under sixteen (16) years of age;

128 (xv) Section 97-29-63 relating to filming another
129 without permission where there is an expectation of privacy;

130 (xvi) Section 97-29-45(1)(a) relating to obscene
131 electronic communication;

132 (xvii) Section 97-3-104 relating to the crime of
133 sexual activity between law enforcement, correctional or custodial
134 personnel and prisoners;

135 (xviii) Section 97-5-39(1)(e) relating to
136 contributing to the neglect or delinquency of a child, felonious
137 abuse or battery of a child, if the victim was sexually abused;

138 (xix) Section 97-29-51 relating to procuring or
139 promoting prostitution when the victim is a child under eighteen
140 (18) years of age;

141 (xx) Section 97-1-7 relating to attempt to commit
142 any of the offenses referenced in this paragraph (h);

143 (xxi) Any other offense resulting in a conviction
144 in another jurisdiction which, if committed in this state, would
145 be deemed to be such a crime without regard to its designation
146 elsewhere;



147 (xxii) Any offense resulting in a conviction in
148 another jurisdiction for which registration is required in the
149 jurisdiction where the conviction was had;

150 (xxiii) Any conviction of conspiracy to commit,
151 accessory to commission, or attempt to commit any offense listed
152 in this section;

153 (xxiv) Capital murder when one (1) of the
154 above-described offenses is the underlying crime.

155 (i) "Temporary residence" is defined as any place where
156 the person abides, lodges, or resides for a period of seven (7) or
157 more * * * aggregate days in a six (6) month period which is not
158 the person's permanent residence.

159 (j) "Address" means the actual physical street address
160 of a person's permanent or temporary residence. For a person who
161 is homeless but is subject to registration under this chapter, the
162 address information must provide a specific description of where
163 the person habitually lives; the term "homeless" or similar
164 description does not constitute an address within the
165 contemplation of this chapter.

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

168 45-33-25. (1) (a) Any person having a permanent or
169 temporary residence in this state or who is employed or attending
170 school in this state who has been convicted of a registrable
171 offense in this state or another jurisdiction or who has been



172 acquitted by reason of insanity of a registrable offense in this
173 state or another jurisdiction shall register with the responsible
174 agency and the Mississippi Department of Public Safety.
175 Registration shall not be required for an offense that is not a
176 registrable sex offense or for an offender who is under fourteen
177 (14) years of age. The department shall provide the initial
178 registration information as well as every change of name, change
179 of address, change of status at a school, or other change of
180 information as required by the department to the sheriff of the
181 county of the residence address of the registrant, the sheriff of
182 the county of the employment address, and the sheriff of the
183 county of the school address, if applicable, and any other
184 jurisdiction of the registrant through either written notice,
185 electronic or telephone transmissions, or online access to
186 registration information. Further, the department shall provide
187 this information to the Federal Bureau of Investigation.
188 Additionally, upon notification by the registrant that he intends
189 to reside outside the State of Mississippi, the department shall
190 notify the appropriate state law enforcement agency of any state
191 to which a registrant is moving or has moved.

192 (b) Any person having a permanent or temporary
193 residence or who is employed or attending school in this state who
194 has been adjudicated delinquent for a registrable sex offense
195 listed in this paragraph that involved use of force against the
196 victim shall register as a sex offender with the responsible



197 agency and shall personally appear at a facility designated by the
198 Mississippi Department of Public Safety, or in a manner of the
199 Department of Public Safety's choosing, including by electronic
200 means, within three (3) business days of registering with the
201 responsible agency:

202 (i) Section 97-3-71 relating to rape and assault
203 with intent to ravish;

204 (ii) Section 97-3-95 relating to sexual battery;

205 (iii) Section 97-3-65 relating to statutory rape;

206 or

207 (iv) Conspiracy to commit, accessory to the
208 commission of, or attempt to commit any offense listed in this
209 paragraph.

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

212 (a) Name, including a former name which has been
213 legally changed;

214 (b) Street address of all current permanent and
215 temporary residences within state or out of state at which the sex
216 offender resides or habitually lives, including dates of temporary
217 lodgings. There is a presumption that a registrant owes a duty of
218 updating registration information if * * * the registrant remains
219 away from a registered address for seven (7) or more * * *
220 aggregate days in a six (6) month period; * * *

221 * * *



222 (c) Date, place and address of employment, including as
223 a volunteer or unpaid intern or as a transient or day laborer;
224 (d) Crime for which charged, arrested or convicted;
225 (e) Date and place of conviction, adjudication or
226 acquittal by reason of insanity;
227 (f) Aliases used or nicknames, ethnic or tribal names
228 by which commonly known;
229 (g) Social security number and any purported social
230 security number or numbers;
231 (h) Date and place of birth and any purported date and
232 place of birth;
233 (i) Age, race, sex, height, weight, hair and eye
234 colors, and any other physical description or identifying factors;
235 (j) A brief description of the offense or offenses for
236 which the registration is required;
237 (k) Driver's license or state or other jurisdiction
238 identification card number, which license or card may be
239 electronically accessed by the Department of Public Safety;
240 (l) Anticipated future residence;
241 (m) If the registrant's residence is a motor vehicle,
242 trailer, mobile home or manufactured home, the registrant shall
243 also provide vehicle identification number, license tag number,
244 registration number and a description, including color scheme, of
245 the motor vehicle, trailer, mobile home or manufactured home; if
246 the registrant's place of residence is a vessel or houseboat, the



247 registrant shall also provide the hull identification number,
248 manufacturer's serial number, name of the vessel or houseboat,
249 registration number and a description, including color scheme, of
250 the vessel or houseboat, including permanent or frequent locations
251 where the motor vehicle, trailer, mobile home, manufactured home,
252 vessel or houseboat is kept;

253 (n) Vehicle make, model, color and license tag number
254 for all vehicles owned or operated by the sex offender, whether
255 for work or personal use, and the permanent or frequent locations
256 where a vehicle is kept;

257 (o) Offense history;

258 (p) Photograph;

259 (q) Fingerprints and palm prints;

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

262 (s) Biological sample;

263 (t) Name of any public or private educational
264 institution, including any secondary school, trade or professional
265 institution or institution of higher education at which the
266 offender is employed, carries on a vocation (with or without
267 compensation) or is enrolled as a student, or will be enrolled as
268 a student, and the registrant's status;

269 (u) Copy of conviction or sentencing order for the sex
270 offense for which registration is required;



271 (v) The offender's parole, probation or supervised
272 release status and the existence of any outstanding arrest
273 warrants;

274 (w) Every online identity, screen name or username
275 used, registered or created by a registrant;

276 (x) Professional licensing information which authorizes
277 the registrant to engage in an occupation or carry out a trade or
278 occupation;

279 (y) Information from passport and immigration
280 documents;

281 (z) All telephone numbers, including, but not limited
282 to, permanent residence, temporary residence, cell phone and
283 employment phone numbers, whether landlines or cell phones; and

284 (aa) Any other information deemed necessary.

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

289 (4) (a) A person required to register under this chapter
290 shall not reside within three thousand (3,000) feet of the real
291 property comprising a public or nonpublic elementary or secondary
292 school, a child care facility, a residential child-caring agency,
293 a children's group care home or any playground, ballpark or other
294 recreational facility utilized by persons under the age of
295 eighteen (18) years.



296 (b) A person residing within three thousand (3,000)
297 feet of the real property comprising a public or nonpublic
298 elementary or secondary school or a child care facility does not
299 commit a violation of this subsection if any of the following
300 apply:

301 (i) The person is serving a sentence at a jail,
302 prison, juvenile facility or other correctional institution or
303 facility.

304 (ii) The person is subject to an order of
305 commitment under Title 41, Mississippi Code of 1972.

306 (iii) The person established the subject residence
307 before July 1, 2006.

308 (iv) The school or child care facility is
309 established within three thousand (3,000) feet of the person's
310 residence subsequent to the date the person established residency.

311 (v) The person established the subject residence
312 between July 1, 2006, and January 1, 2014, in a location at least
313 one thousand five hundred (1,500) feet from the school or child
314 care facility.

315 (vi) The person is a minor or a ward under a
316 guardianship.

317 (c) A person residing within three thousand (3,000)
318 feet of the real property comprising a residential child-caring
319 agency, a children's group care home or any playground, ballpark
320 or other recreational facility utilized by persons under the age



321 of eighteen (18) years does not commit a violation of this
322 subsection if any of the following apply:

323 (i) The person established the subject residence
324 before July 1, 2008.

325 (ii) The residential child-caring agency,
326 children's group care home, playground, ballpark or other
327 recreational facility utilized by persons under the age of
328 eighteen (18) years is established within three thousand (3,000)
329 feet of the person's residence subsequent to the date the person
330 established residency.

331 (iii) The person established the subject residence
332 between July 1, 2008, and January 1, 2014, in a location at least
333 one thousand five hundred (1,500) feet from the residential
334 child-caring agency, children's group care home, playground,
335 ballpark or other recreational facility utilized by persons under
336 the age of eighteen (18) years.

337 (iv) Any of the conditions described in subsection
338 (4) (b) (i), (ii) or (vi) exist.

339 (5) The Department of Public Safety is required to obtain
340 the text of the law defining the offense or offenses for which the
341 registration is required.

342 **SECTION 3.** (1) As used in this section, the following words
343 and phrases have the meanings ascribed in this subsection unless
344 the context clearly requires otherwise:



345 (a) "Organ procurement organization PEER review
346 committee," "PEER review committee" or "committee" means a
347 committee of representatives of a not-for-profit organization
348 responsible for recovering organs from donors for transplantation,
349 which organization's federally designated donation service area
350 includes all or a portion of the State of Mississippi. An "organ
351 procurement organization PEER review committee" may be comprised
352 solely of representatives of a state not-for-profit organization
353 or any national not-for-profit entity with which the federal
354 government contracts to serve as the nation's transplant system,
355 or a combination of representatives from both the state
356 organization and entity servicing as the nation's transplant
357 system.

358 (b) "Proceedings" means all reviews, meetings,
359 conversations and communications of an organ procurement
360 organization PEER review committee.

361 (c) "Records" means all committee minutes, transcripts,
362 applications, correspondence, incident reports and other documents
363 created, received or reviewed by or for an organ procurement
364 organization PEER review committee.

365 (2) A not-for-profit organization responsible for recovering
366 organs from donors for transplantation in all or a portion of the
367 state may establish an organ procurement organization PEER review
368 committee. The functions of an organ procurement organization
369 PEER review committee include, but are not limited to: evaluating



370 and improving the quality of services rendered by the state
371 organization; evaluating the competence or practice of employees
372 and staff of the state organization; and determining if services
373 rendered by the organization were professionally performed in
374 compliance with the applicable standard of care.

375 (3) A person or institution furnishing information, data,
376 reports or records to a PEER review committee may not be held
377 liable for damages to another person by reason of furnishing the
378 information. A member of a PEER review committee may not be held
379 liable for damages to a person for an action taken or
380 recommendation made within the scope of the functions of the
381 committee if the committee or committee member acted without
382 malice and in the reasonable belief that the action or
383 recommendation was warranted by the facts known to the individual
384 at the time of the action or recommendation.

385 (4) The identity of a person who is an organ donor or organ
386 recipient is confidential and may not be revealed by a PEER review
387 committee or member of the committee.

388 (5) Notwithstanding any conflicting statute, court rule or
389 other law, in order to encourage PEER review activity, the
390 proceedings and records of an organ procurement organization PEER
391 review committee are confidential and not subject to discovery or
392 introduction into evidence in a civil action arising out of the
393 matters which are the subject of evaluation and review by the
394 committee. A person who was in attendance at a meeting of the



395 PEER review committee may not be permitted or required to testify
396 in a civil action regarding evidence or other matters produced or
397 presented during the proceedings of the committee or as to any
398 findings, recommendations, evaluations, opinions or other actions
399 of the committee or its members. However, information, documents
400 or records otherwise discoverable or admissible from original
401 sources are not to be construed as immune from discovery or use in
402 a civil action merely because they were presented during the
403 proceedings of the committee. A person who testifies before the
404 committee or who is a member of the committee may not be prevented
405 from testifying as to other matters within the person's knowledge;
406 however, a witness may not be questioned concerning the person's
407 participation on or testimony before the committee or opinions
408 formed by the witness as a result of the PEER review committee
409 hearings or proceedings.

410 (6) The provisions of subsection (5) of this section which
411 limit the discovery of PEER review committee records and
412 proceedings do not apply in a legal action brought by a PEER
413 review committee against an employee of the organization or other
414 person for alleged wrongdoing or in a legal action brought by an
415 aggrieved employee of the organization or other person against the
416 committee or a member of the committee for actions alleged to have
417 been malicious.

418 **SECTION 4.** Section 47-7-47, Mississippi Code of 1972, is
419 amended as follows:



420 47-7-47. (1) The judge of any circuit court may place an
421 offender on a program of earned probation, in an intensive
422 supervision program or any intervention court authorized by law
423 after a period of confinement as set out herein and the judge may
424 seek the advice of the commissioner and shall direct that the
425 defendant be under the supervision of the department.

426 (2) (a) Any circuit court or county court may, upon its own
427 motion, acting upon the advice and consent of the commissioner not
428 earlier than thirty (30) days nor later than * * * three (3) years
429 after the defendant has been delivered to the custody of the
430 department, * * * incarcerated by order of the court or otherwise
431 sentenced, modify, alter or suspend the further execution of the
432 sentence and place the defendant on earned probation, in an
433 intensive supervision program or any intervention court authorized
434 by law except when a death sentence or life imprisonment is the
435 maximum penalty which may be imposed or if the defendant has been
436 confined two (2) or more times for the conviction of a felony on a
437 previous occasion in any court or courts of the United States and
438 of any state or territories thereof or has been convicted of a
439 felony involving the use of a deadly weapon.

440 (b) The authority granted in this subsection shall be
441 exercised by the judge who imposed sentence on the defendant, or
442 his successor.

443 (c) The time limit imposed by paragraph (a) of this
444 subsection is not applicable to those defendants sentenced to the



445 custody of the department prior to April 14, 1977. Persons who
446 are convicted of crimes that carry mandatory sentences shall not
447 be eligible for earned probation.

448 (3) When any circuit or county court places an offender on
449 earned probation, the court shall give notice to the Mississippi
450 Department of Corrections within fifteen (15) days of the court's
451 decision to place the offender on earned probation. Notice shall
452 be delivered to the central office of the Mississippi Department
453 of Corrections and to the regional office of the department which
454 will be providing supervision to the offender on earned probation.

455 (4) If the court places any person on probation or earned
456 probation, the court may order the person, as a condition of
457 probation, to a period of confinement and treatment at a private
458 or public agency or institution, either within or without the
459 state, which treats emotional, mental or drug-related problems.
460 Any person who, as a condition of probation, is confined for
461 treatment at an out-of-state facility shall be supervised pursuant
462 to Section 47-7-71, and any person confined at a private agency
463 shall not be confined at public expense. Time served in any such
464 agency or institution may be counted as time required to meet the
465 criteria of subsection (2) (a).

466 (5) If the court places any person on probation or earned
467 probation, the court may order the person to make appropriate
468 restitution to any victim of his crime or to society through the
469 performance of reasonable work for the benefit of the community.



470 (6) If the court places any person on probation or earned
471 probation, the court may order the person, as a condition of
472 probation, to submit, as provided in Section 47-5-601, to any type
473 of breath, saliva or urine chemical analysis test, the purpose of
474 which is to detect the possible presence of alcohol or a substance
475 prohibited or controlled by any law of the State of Mississippi or
476 the United States.

477 **SECTION 5.** This act shall take effect and be in force from
478 and after July 1, 2024.

