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Chapter No. 259

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***SENATE BILL NO. 2032***

Originated in Senate

*Jerry W. Gungles*

Secretary

SENATE BILL NO. 2032

AN ACT TO AMEND SECTION 45-33-23, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 45-33-25, MISSISSIPPI CODE OF 1972, TO REVISE REGISTRATION UNDER THE ACT; TO AMEND SECTION 45-33-27, MISSISSIPPI CODE OF 1972, TO REVISE THE NUMBER OF DAYS WITHIN WHICH REGISTRATION IS REQUIRED; TO CREATE NEW SECTION 45-33-28, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REGISTRATION OF AN OFFENDER HOUSED AT A SHELTER DURING A NATURAL DISASTER OR OTHER EMERGENCY; TO AMEND SECTION 45-33-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONSIBILITY OF A REGISTRANT TO UPDATE REGISTRATION INFORMATION; TO AMEND SECTION 45-33-31, MISSISSIPPI CODE OF 1972, TO REVISE NOTIFICATION OF OTHER LAW ENFORCEMENT AGENCIES; TO AMEND SECTION 45-33-33, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR VIOLATIONS; TO AMEND SECTION 45-33-35, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONSIBILITY OF A REGISTRANT TO UPDATE REGISTRATION INFORMATION; TO AMEND SECTION 45-33-36, MISSISSIPPI CODE OF 1972, TO REVISE THE NOTIFICATION GIVEN TO OTHER INTERESTED PARTIES; TO AMEND SECTION 45-33-39, MISSISSIPPI CODE OF 1972, TO REVISE THE REGISTRATION DUTIES OF A COURT UNDER THE ACT; TO AMEND SECTION 45-33-47, MISSISSIPPI CODE OF 1972, TO CREATE A THREE-TIER CLASSIFICATION OF OFFENSES TO CORRELATE WITH THE LENGTH OF TIME DURING WHICH CONTINUING REGISTRATION IS REQUIRED; TO AMEND SECTION 45-33-49, MISSISSIPPI CODE OF 1972, TO REVISE THE DEPARTMENT'S RESPONSIBILITY TO MAINTAIN A WEBSITE AND PROVIDE PUBLIC NOTICE; TO AMEND SECTION 47-7-35, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

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

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

"Conviction of similar offenses" includes, but is not limited to, a conviction by a federal or military tribunal, including a court

martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian Reservation or other federal property, a conviction in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianna Islands or the United States Virgin Islands, and a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5) (B) Public Law 109-28.

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

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

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

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

(f) "Responsible agency" is defined as the person or government entity whose duty it is to obtain information from a

criminal sex offender upon conviction and to transmit that information to the Mississippi Department of Public Safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \*

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

(xiii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor;

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

(xv) Section 97-29-45 relating to obscene electronic communication;

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

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

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

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

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

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

(h) "Temporary residence" is defined as any place where the person abides, lodges, or resides for a period of seven (7) or more consecutive days \* \* \* which is not the person's permanent residence \* \* \*.

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

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

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

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

(b) Any person having a permanent or temporary residence or who is employed or attending school in this state who has been adjudicated delinquent for a registrable sex offense listed in this paragraph that involved use of force against the victim shall register as a sex offender with the responsible agency and shall personally appear at a Mississippi Department of Public Safety Driver's License Station within three (3) business days of registering with the responsible agency:

- (i) Section 97-3-71 relating to rape and assault with intent to ravish;
- (ii) Section 97-3-95 relating to sexual battery;
- (iii) Section 97-3-65 relating to statutory rape;

or

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

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

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

(b) Street address of all current permanent and temporary residences within state or out of state at which the sex offender resides or habitually lives, including dates of temporary lodgings;

(c) Date, place and address of employment, including as a volunteer or unpaid intern or as a transient or day laborer;

(d) Crime for which charged, arrested or convicted;

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

(f) Aliases used or nicknames, ethnic or tribal names by which commonly known;

(g) Social security number and any purported social security number or numbers;

(h) Date and place of birth and any purported date and place of birth;

(i) Age, race, sex, height, weight, hair and eye colors, and any other physical description or identifying factors;

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

(k) Driver's license or state or other jurisdiction identification card number, which license or card may be electronically accessed by the Department of Public Safety;

(l) Anticipated future residence;

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

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

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

(o) Offense history;

(p) Photograph;

(q) Fingerprints and palm prints;

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

(s) Biological sample;

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

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

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

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

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

(y) Information from passport and immigration documents;

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

(aa) Any other information deemed necessary.

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

(4) (a) A person required to register under this chapter shall not reside within one thousand five hundred (1,500) feet of the real property comprising a public or nonpublic elementary or secondary school, a child care facility, a residential child-caring agency, a children's group care home or any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years.

(b) A person residing within one thousand five hundred (1,500) feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this subsection if any of the following apply:

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

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

(iii) The person established the subject residence prior to July 1, 2006, or the school or child care facility is located within one thousand five hundred (1,500) feet of the

person's residence subsequent to the date the person established residency.

(iv) The person is a minor or a ward under a guardianship.

(c) A person residing within one thousand five hundred (1,500) feet of the real property comprising a residential child-caring agency, a children's group care home or any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years does not commit a violation of this subsection if any of the following apply:

(i) The person established the subject residence prior to July 1, 2008, or the residential child-caring agency, a children's group care home, playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years is established within one thousand five hundred (1,500) feet of the person's residence subsequent to the date the person established residency.

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

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

**SECTION 3.** Section 45-33-27, Mississippi Code of 1972, is amended as follows:

45-33-27. (1) A person required to register on the basis of a conviction, adjudication of delinquency or acquittal by reason of insanity entered shall register with the responsible agency within three (3) business days of the date of judgment unless the person is immediately confined or committed, in which case the person shall register before release in accordance with the procedures established by the department. The responsible agency shall immediately forward the registration information to the Department of Public Safety. The person is also required to

personally appear at a Department of Public Safety Driver's License Station within three (3) days of registration with the responsible agency and to obtain a sex offender registration card.

(2) If a person who is required to register under this section is released from prison or placed on parole or supervised release or in a restitution center or community work center, the Department of Corrections shall perform the registration duties before placement in a center or before release and immediately forward the registration information to the Department of Public Safety. The person is also required to personally appear at a Department of Public Safety Driver's License Station within three (3) days of release or placement in a restitution center or community work center.

(3) If a person required to register under this section is placed on probation, the court, at the time of entering the order, shall register the person and immediately forward the registration information to the Department of Public Safety. The person is also required to personally appear at a Department of Public Safety Driver's License Station within three (3) days of the entry of the order.

(4) Any person required to register who is neither incarcerated, detained nor committed at the time the requirement to register attaches shall present himself to the county sheriff to register within three (3) business days, and shall personally appear at a Department of Public Safety Driver's License Station within three (3) days of the time the requirement to register attaches.

(5) An offender moving to or returning to this state from another jurisdiction shall notify the Department of Public Safety ten (10) days before the person first resides in or returns to this state and shall present himself to the sheriff of the county of his residence within three (3) business days after first residing in or returning to a county of this state to provide the

required registration information. The person is also required to register by personally appearing at a Department of Public Safety Driver's License Station within three (3) days after first residing in or moving to a county of this state. If the offender fails to appear for registration as required in this state, the department shall notify the other jurisdiction of the failure to register.

(6) A person, other than a person confined in a correctional or juvenile detention facility or involuntarily committed on the basis of mental illness, who is required to register on the basis of a sex offense for which a conviction, adjudication of delinquency or acquittal by reason of insanity was entered \* \* \* shall register with the sheriff of the county in which he resides no later than August 15, 2000, or within three (3) business days of first residing in or returning to a county of this state.

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

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

(9) The department will assist local law enforcement agencies in the effort to conduct address and other verifications of registered sex offenders and will assist in the location and apprehension of noncompliant sex offenders.

**SECTION 4.** The following shall be codified as Section 45-33-28, Mississippi Code of 1972:

45-33-28. (1) Notwithstanding any other provision of the law to the contrary, during a declaration of emergency, any person who has been required to register as a sex offender as provided in this chapter who enters an emergency shelter, within the first twenty-four (24) hours of admittance, shall notify the management of the facility, the sheriff of the county in which the shelter is located and the chief of police of the municipality, if the shelter is located in a municipality, of the person's sex offender status. The sex offender shall provide his full name, date of birth, social security number, and last address of registration prior to the declaration of emergency. Within seventy-two (72) hours of receiving the notification required by the provisions of this subsection, the sheriff and chief of police shall forward that information to the department.

(2) The manager or director of the emergency shelter shall make a reasonable effort to notify the chief law enforcement officer of the county or municipality in which the shelter is located of the presence of the sex offender in the emergency shelter. No person associated with a nonprofit organization that operates an emergency shelter shall be liable for any injury or claim arising out of the failure of the manager or operator to communicate the presence of a sex offender in the shelter to the appropriate law enforcement official.

**SECTION 5.** Section 45-33-29, Mississippi Code of 1972, is amended as follows:

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

(2) Upon any change in the status of a registrant's enrollment, employment or vocation at any public or private educational institution, including any secondary school, trade or

professional institution or institution of higher education, the offender is required to personally appear at a Department of Public Safety Driver's License Station within three (3) business days of the change.

(3) Upon any change of employment or change of name, a registrant is required to personally appear at a Department of Public Safety Driver's License Station within three (3) business days of the change.

(4) Upon any change of vehicle information, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(5) Upon any change of e-mail address or addresses, instant message address or addresses, or any other designation used in Internet communications, postings or telephone communications, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(6) Upon any change of information deemed by the department to be necessary to the state's policy to assist local law enforcement agencies' efforts to protect their communities, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

**SECTION 6.** Section 45-33-31, Mississippi Code of 1972, is amended as follows:

45-33-31. All registrants are required to personally appear at a Department of Public Safety Driver's License Station to reregister every ninety (90) days. Reregistration includes the submission of current information and photograph to the department and the verification of registration information, including the street address and telephone number of the registrant; name, street address and telephone number of the registrant's employment or status at a school, along with any other registration

information that may need to be verified and the payment of any required fees. A person who fails to reregister and obtain a renewal sex offender registration card as required by this section commits a violation of this chapter. The Department of Public Safety will immediately notify any sheriff or other jurisdiction of any changes in information including residence address, employment and status at a school if that jurisdiction, county or municipality is affected by the change.

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

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

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

(i) Knowingly harbors, or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this chapter; or

(ii) Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this chapter; or

(iii) Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.

(2) Unless otherwise specified, a violation of this chapter shall be considered a felony and shall be punishable by a fine not

more than Five Thousand Dollars (\$5,000.00) or imprisonment in the State Penitentiary for not more than five (5) years, or both fine and imprisonment.

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

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

(b) If the sheriff is unable to locate the offender, the sheriff shall promptly notify the department and initiate a criminal prosecution against the offender for the failure to register or reregister. The sheriff shall make the appropriate transactions into the Federal Bureau of Investigation's wanted-person database and issue a warrant for the offender's arrest. The department shall notify the United States Marshal Service of the offender's noncompliant status and shall update the registry database and website to show the defendant's noncompliant status as an absconder.

(4) A \* \* \* violation of this chapter shall result in the arrest of the offender. \* \* \*

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

(6) A person required to register under this chapter who commits any act or omission in violation of this chapter may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sex offender, the county in which the conviction occurred for the offense or offenses that meet the criteria

requiring the person to register, or in the county in which he was designated a sex offender.

(7) The Commissioner of Public Safety or his authorized agent shall suspend the driver's license or driving privilege of any offender failing to comply with the duty to report, register or reregister, or who has provided false information.

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

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

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

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

(4) Before release from a community regional mental health center or from confinement in a mental institution following an

acquittal by reason of insanity, the director of the facility shall inform the offender of the duty to register, including the duty to personally appear at a Department of Public Safety Driver's License Station, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety \* \* \*

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

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

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

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

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

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

(iv) Address verifications shall be made by personally appearing at a Department of Public Safety Driver's License Station within the required time period.

(v) Notification or verification of a change in status of a registrant's enrollment, employment or vocation at any public or private educational institution, including any secondary school, trade or professional institution, or institution of

higher education shall be reported to the department by personally appearing at a Department of Public Safety Driver's License Station within three (3) business days of the change.

(vi) If the person has been convicted of a sex offense, the person shall notify any organization for which the person volunteers in which volunteers have direct, private or unsupervised contact with minors that the person has been convicted of a sex offense as provided in Section 45-33-32(1).

(vii) Upon any change of name or employment, a registrant is required to personally appear at a Department of Public Safety Driver's License Station within three (3) business days of the change.

(viii) Upon any change of vehicle information, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(ix) Upon any change of e-mail address or addresses, instant message address or addresses or any other designation used in Internet communications, postings or telephone communications, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(x) Upon any change of information deemed to be necessary to the state's policy to assist local law enforcement agencies' efforts to protect their communities, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

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

(c) Obtain or facilitate the obtaining of a biological sample from every registrant as required by this chapter if such

biological sample has not already been provided to the Mississippi Crime Lab.

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

**SECTION 9.** Section 45-33-36, Mississippi Code of 1972, is amended as follows:

45-33-36. (1) Upon receipt of sex offender registration or change of registration information, the Department of Public Safety shall immediately provide the information to:

(a) The National Sex Offender Registry or other appropriate databases;

(b) The sheriff of the county or any other jurisdiction where the offender resides, is an employee or is a student or intends to reside, work, attend school or volunteer;

(c) The sheriff of the county or any other jurisdiction from which or to which a change of residence, employment or student status occurs; \* \* \*

(d) The Department of Human Services and any other social service entities responsible for protecting minors in the child welfare system;

(e) The probation agency that is currently supervising the sex offender;

(f) Any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 USC 5119(a));

(g) Each school and public housing agency in each jurisdiction in which the sex offender resides, is an employee or is a student;

(h) All prosecutor offices in each jurisdiction in which the sex offender resides, is an employee, or is a student;  
and

(i) Any other agencies with criminal investigation, prosecution or sex offender supervision functions in each

jurisdiction in which the sex offender resides, is an employee, or is a student.

(2) The Department of Public Safety shall post changes to the public registry website within three (3) business days. Electronic notification will be available via the Internet to all law enforcement agencies, to any volunteer organizations in which contact with minors or vulnerable adults might occur and any organization, company or individual who requests \* \* \* notification pursuant to procedures established by the Department of Public Safety. This provision shall take effect upon the state's receipt and implementation of the Department of Justice software in compliance with the provisions of the Adam Walsh Act.

**SECTION 10.** Section 45-33-39, Mississippi Code of 1972, is amended as follows:

45-33-39. (1) The court shall provide written notification to any defendant charged with a sex offense as defined by this chapter of the registration requirements of Sections 45-33-25 and 45-33-31. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant. The court shall obtain a written acknowledgment of receipt on each occasion.

(2) A court imposing a sentence, disposition or order of commitment following acquittal by reason of insanity shall notify the offender of the registration requirements of Sections 45-33-25 and 45-33-31. The court shall obtain a written acknowledgment of receipt on each occasion.

(3) A court having jurisdiction of any of the offenses enumerated in Section 45-33-23(g) shall cause to be forwarded to the Department of Public Safety a certified record of conviction in such court of any person of any of the offenses listed.

**SECTION 11.** Section 45-33-47, Mississippi Code of 1972, is amended as follows:

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

(2) A person having a duty to register under Section 45-33-25 may petition the circuit court of the sentencing jurisdiction, or for a person whose duty to register arose in another jurisdiction, the county in which the registrant resides, to be relieved of that duty under the following conditions:

(a) The offender has maintained his registration in Mississippi for the required minimum registration from the most recent date of occurrence of at least one (1) of the following: release from prison, placement on parole, supervised release or probation or as determined by the offender's tier classification. Incarceration for any offense will restart the \* \* \* minimum registration requirement. Registration in any other jurisdiction does not reduce the minimum time requirement for maintaining registration in Mississippi.

(b) (i) Tier One requires registration for a minimum of fifteen (15) years in this state and includes any of the following listed sex offenses:

1. Section 97-5-27(1) relating to dissemination of sexually oriented material to children.

2. Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this tier.

(ii) Notwithstanding another provision of this section, an offender may petition the appropriate circuit court to be relieved of the duty to register upon fifteen (15) years' satisfaction of the requirements of this section for the convictions classified as Tier One offenses.

(c) (i) Tier Two requires registration for a minimum of twenty-five (25) years in this state and includes any of the following listed sex offenses:

1. Section 97-5-33(3) through (9) relating to the exploitation of children;

2. Section 97-29-59 relating to unnatural intercourse;

3. Section 97-29-63, relating to filming another without permission where there is an expectation of privacy;

4. Section 97-3-104 relating to crime of sexual activity between law enforcement or correctional personnel and prisoners;

5. Section 97-29-45 relating to obscene electronic communications;

6. Section 43-47-18(2)(a) and (b) relating to gratification of lust or fondling by health care employees or persons in position of trust or authority;

7. Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this tier;

(ii) Notwithstanding another provision of this section, an offender may petition the appropriate circuit court to be relieved of the duty to register upon twenty-five (25) years' satisfaction of the requirements of this section for the convictions classified as Tier Two offenses.

(d) Tier Three requires \* \* \* lifetime registration, the registrant not being eligible to be relieved of the duty to register except as otherwise provided in this paragraph, and includes any of the following listed sex offenses:

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

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

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

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

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

(vi) Section 97-3-53 relating to kidnapping if the victim is under the age of eighteen (18);

(vii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor;

(viii) Section 97-3-54.3 relating to aiding, abetting or conspiring to violate antihuman trafficking provisions;

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

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

(xi) Section 43-47-18 relating to sexual abuse of a vulnerable adult by health care employees or persons in a position of trust or authority; \* \* \*

(xii) Section 97-5-39(1)(c) relating to contributing to the neglect or delinquency of a child, felonious abuse and/or battery of a child, if the victim was sexually abused;

(xiii) Capital murder when one (1) of the above described offenses is the underlying crime;

(xiv) Any conviction for violation of a similar law of another jurisdiction or designation as a sexual predator in another jurisdiction;

(xv) Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this tier; or

(xvi) A first-time offender fourteen (14) years of age or older adjudicated delinquent in a youth court for the crime of rape pursuant to Section 96-3-65, or sexual battery pursuant to

Section 97-3-95, is subject to lifetime registration but shall be eligible to petition to be relieved of the duty to register after twenty-five (25) years of registration.

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

(f) An offender, twenty-one (21) years of age or older, who is convicted of any sex offense where the victim was fourteen (14) years of age or younger shall be subject to lifetime registration and shall not be relieved of the duty to register.

(g) A first-time offender fourteen (14) years of age or older adjudicated delinquent in a youth court for the crime of rape pursuant to Section 96-3-65 or sexual battery pursuant to Section 97-3-95 is subject to lifetime registration and shall be eligible to petition to be relieved of the duty to register after twenty-five (25) years of registration.

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

(i) The department shall continue to list in the registry the name and registration information of all registrants who no longer work, reside or attend school in this state even after the registrant moves to another jurisdiction and registers in the new jurisdiction as required by law. The registry shall note that the registrant moved out of state.

(3) In determining whether to release an offender from the obligation to register, the court shall consider the nature of the registrable offense committed and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction. The court may relieve the offender of the duty to register only if the petitioner shows, by clear and convincing

evidence, that the registrant properly maintained his registration as required by law and that future registration of the petitioner will not serve the purposes of this chapter and the court is otherwise satisfied that the petitioner is not a current or potential threat to public safety. The district attorney in the circuit in which the petition is filed must be given notice of the petition at least three (3) weeks before the hearing on the matter. The district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the petitioner may not again petition the court for relief until one (1) year has elapsed unless the court orders otherwise in its order of denial of relief.

(4) The offender will be required to continue registration for any sex offense conviction unless the conviction is set aside in any post-conviction proceeding, the offender receives a pardon, the charge is dismissed or the offender has received a court order pursuant to this section relieving him of the duty to register. Upon submission of the appropriate documentation to the department of one (1) of these occurrences, registration duties will be discontinued.

\* \* \*

**SECTION 12.** Section 45-33-49, Mississippi Code of 1972, is amended as follows:

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

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

(3) A sheriff shall maintain records for registrants of the county and shall make available to any person upon request the name, address, place of employment, crime for which convicted,

date and place of conviction of any registrant, and any other information deemed necessary for the protection of the public. The sheriffs shall be responsible for verifying their respective registries annually against the department's records to ensure current information is available at both levels.

(4) (a) Upon written request, the department shall provide to any person the name, address, photograph, if available, date of photograph, place of employment, crime for which convicted, date and place of conviction of any registrant, hair, eye color, height, race, sex and date of birth of any registrant, and any other information deemed necessary for the protection of the public. \* \* \*

(b) (i) The Department of Public Safety shall maintain an Internet website in a manner that will permit the public to obtain relevant information for each sex offender in the registry as required in this subsection (4). The website shall permit the public to obtain relevant information for each offender by a single query for any given name, zip code, municipality, county or geographic radius set by the user.

(ii) The Department of Public Safety shall participate in the Dru Sjodin National Sex Offender Public website. The information required to be displayed on the public registry website includes the offender's name and all known aliases; a current photograph; a physical description; the offender's residential addresses including the offender's permanent address and any address at which the offender habitually lives; employer address; school address; the current sex offense for which the offender is registered; criminal history of any other sex offenses for which the offender has been convicted; a description of the offender's vehicle including license tag number; and the offender's status if designated as noncompliant or an absconder because of failure to comply with the requirements of this chapter.

(iii) The public website shall not display the identity of a victim of an offense that requires registration under this chapter or the registered sex offender's social security number, travel or immigration document numbers, Internet identifiers, telephone numbers, or any arrests not resulting in conviction.

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

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

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

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

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

That the offender shall:

(a) Commit no offense against the laws of this or any other state of the United States, or of any federal, territorial or tribal jurisdiction of the United States;

(b) Avoid injurious or vicious habits;

(c) Avoid persons or places of disreputable or harmful character;

- (d) Report to the probation and parole officer as directed;
- (e) Permit the probation and parole officer to visit him at home or elsewhere;
- (f) Work faithfully at suitable employment so far as possible;
- (g) Remain within a specified area;
- (h) Pay his fine in one (1) or several sums;
- (i) Support his dependents;
- (j) Submit, as provided in Section 47-5-601, to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States;
- (k) Register as a sex offender if so required under Title 45, Chapter 33.

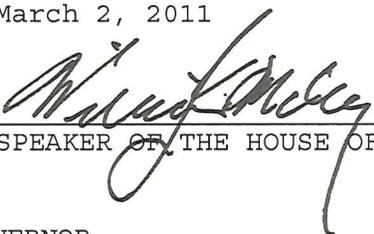
(2) When any court places a defendant on misdemeanor probation, the court must cause to be conducted a search of the probationer's name or other identifying information against the registration information regarding sex offenders maintained under Title 45, Chapter 33. The search may be conducted using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

**SECTION 14.** This act shall take effect and be in force from and after July 1, 2011.

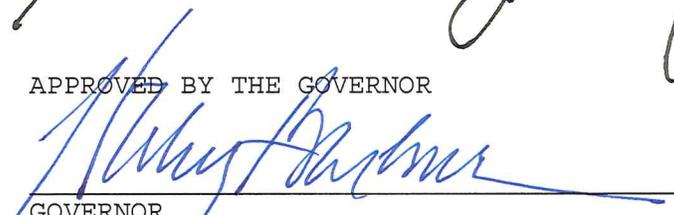
PASSED BY THE SENATE  
February 3, 2011

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 2, 2011

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR

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